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THE

STATUTES

OF THE

MISSISSIPPI TERRITORY,

REVISED AND DIGESTED

BY THE

AUTHORITY

OF THE

GENERAL ASSEMBLY.

BY THE HONORABLE

HARRY TOULMIN,

ONE OF THE UNITED STATES' JUDGES FOR

THE MISSISSIPPI TERRITORY.

PUBLISHED BY AUTHORITY.

NATCHEZ:
PRINTED BY
SAMUEL TERRELL,
PRINTER TO THE MISSISSIPPI TERRITORY.
1807.

A

DIGEST

OF THE

STATUTES

OF THE

MISSISSIPPI TERRITORY,

CONTAINING ALL THE

LAWS

NOW IN FORCE:

THE CONSTITUTION OF THE UNITED STATES,

With the ſeveral amendments thereto:

THE ORDINANCE

For the Government of the Territory of the United States

North-west of the River Ohio:

AND SUCH

ACTS OF CONGRESS

AS RELATE TO THE MISSISSIPPI TERRITORY,

To Land Titles within the ſame, to Crimes and Miſdemeanors,
and the Intercourſe with the Indian nations, together
with the Articles of Agreement and Ceſſion
between the United States and
the State of Georgia.

1807.

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ERRATA.

The reader will please to make the following corrections. The letter b *means from the bottom*

PAGE 13, line 2, After *ordinances* inſert *and.*
Beginning of ſection 16 ſtrike out *or voting out of one's own county.*
17, Strike out the three laſt lines,
105, l. 9, For *furnish* read *punish.*
109, Sec. 11. l 8, For *action* read *actions.*
128, l. 8. After *whom* inſert *he would sue.*
137 l. 21, After *is* inſert *not.*
156, l. 4, b. For *accordingly* read *according.*
186, l. 23, For *live* read *other* and after *other* in the next line, inſert *live,*
190, l. 3, Strike out *that.*
191, l. 6, For *revision* read *reversion.*
191, l. 4, b. For *scire* read *fieri.*
195, l. 10, For *dealing* read *dieting.*
195, l. 21, After *if* inſert *otherwise.*
196, l. 7, b After *attachment* inſert *shall issue,*
261, l. 8, b. For *cocinous* read *covinous.*
262 l 15. b. After *as* inſert *to.*
265, l. 2, b. After *person* inſert *who.*
269, l. 2, For *estates* read *estate* and in the next, line for *of* read *on*
270, l. 15, After *this* inſert act.
292, l. 30, Strike out the words following the word *credits* in l. 30, to the word *of* in line 33.
367, Sec. 6, Strike out the words following the word *crimes* to the end of the ſection and inſert the words *and misdemeanors,*
374, Chapter XIV. ſec. 1 l. 7, after the words *United States* inſert the words *the governor is authorised from time to time by proclamation or otherwise, to require sufficient testimonials of the good reputation of aliens offering to come within the territory, and from them and all others not owing allegiance to the United States*
386, l. 46, Strike out the word *slave,*
401, l. 6, b. For *second* read *third.*
458, Sec. 7 l. 5, For *within* read *without.*
527, Strike out the note, and inſert *see the next act, but one.*
530, Strike out the note.

STATUTES
OF THE
MISSISSIPPI TERRITORY,
REVISED AND DIGESTED.

PART I.

LAWS RELATING TO THE TERRITORIAL AND COUNTY LINES.

CHAP. I.

An act containing so much of former Laws as establishes the Territorial and County Lines.

I. AN ACT for an amicable settlement of limits with the State of Georgia, and authorising the establishment of a government in the Mississippi Territory.

Paſſed by the Congreſs of the U. S. April 7, 1798.

Sec. 3. *And be it further enacted*, That all that tract of country bounded on the west by the Mississippi, on the north by a line to be drawn due east from the mouth of the Yasous to the Chatahouchee river, on the east by the river Chatahouchee, and on the south by the 31st degree of north latitude, shall be, and hereby is constituted one district, to be called the Mississippi Territory.

(Laws of the U. S. vol. 4, p. 90.)

II. An act supplementary to the act entitled "An act regulating the grants of land and providing for the disposal of the lands of the United States, south of the State of Tennessee.

Sec. 7. *And be it further enacted*, That the tract of country lying north of the Mississippi Territory, and south of the State of Tennessee, and bounded on the east by the State of Georgia, and on the west by Louisiana, shall be, and the same is hereby annexed to and made a part of the Mississippi Territory.

(Laws of the U. S. v. 7, p. 169.)

III. PROCLAMATION,

By WINTHROP SARGENT,

Governor of the Mississippi Territory:

To all persons who shall see these presents, Greeting:

WHEREAS it has been directed by the sovereign authority of the United States, that for the due execution of process civil and criminal within this Territory, the Governor shall make proper divisions thereof, and proceed from time to time as circumstances require, to lay out the same into counties and townships, subject to future alteration as may be directed,—and it appearing to me necessary for the purposes above mentioned, that two counties should be erected and laid out: I do ordain and order by these letters made patent, that all and singular the lands lying and being within the boundaries of the Mississippi Territory (as described in the 3d section of the law of the United States, bearing date April the seventh, one thousand seven hundred and ninety-eight, for establishing this government) should constitute two counties,—the division of which shall be a line, commencing at the mouth of Fairchild's creek, and running direct to the most southern part of Ellicot'sville—thence easterly along the dividing ridge of the waters of Cole's and Sandy Creeks, so far as the present settlements extend, and thence by a due east line to the territorial boundary,—the southern or lower division of which is named, and hereafter to be called the County of ADAMS, and the northern or upper division, the County of PICKERING——And unto the said Counties of Adams and Pickering, are hereby granted all and singular the jurisdiction, rights, liberties, privileges and immunities whatsoever, to a county belonging and appertaining, and which any other County that may hereafter be erected and laid off, shall or ought to enjoy, conformably to the laws and ordinances of the United States and of this Territory.

In witness whereof, I have hereunto set my hand, and caused the public seal to be affixed, this second day of April, Anno (L. S.) Domini 1799, and in the 23d year of the Independence of the United States of America.

(Signed) WINTHROP SARGENT.

By his Excellency's command,

JOHN STEELE, *Secretary.*

IV. PROCLAMATION,

By WINTHROP SARGENT,

Governor of the Mississippi Territory:

To all persons who shall see these presents, Greeting:

WHEREAS it has been directed by the sovereign authority of the United States, that for the due execution of process civil and criminal, within this Territory, the Governor shall make proper divisions thereof, and from time to time as circumstances require, lay out the same into counties and townships, subject to future alteration as may be directed;—and it appearing to me that the divisions already made, cannot extend to the inhabitants upon the Tombecbee and other eastern settlements, equal administration of justice; I have thought proper therefore, to erect a new county, and by these letters made patent, do ordain and order, that all and singular the lands lying and being within the following, viz. The territorial boundaries upon the north, east and south, and the Pearl river on the west, shall constitute the same, to be named and hereafter to be called the County of WASHINGTON.——And unto the said County of Washington is hereby granted all and singular the jurisdictions, rights, liberties, privileges and immunities to a county belonging and appertaining, and which any other county that is or may hereafter be erected and laid off, shall or ought to enjoy, conformably to the laws and ordinances of the United States and of this Territory.

In witness whereof, I have hereunto set my hand, and caused the public seal to be affixed, this fourth day of June, Anno (L. S.) Domini one thousand eight hundred, and in the 24th year of the Independence of the United States of America.

(Signed) WINTHROP SARGENT.

By his Excellency's command,

JOHN STEELE, *Secretary.*

V. An act to alter the name of Pickering County.

(Paſſed Jan. 11, 1802.)

Sec. 1. *Be it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, and it is hereby enacted by the authority of the same,* That from and after the passing of this act, the County heretofore known by the name of Pickering, shall be called Jefferson County.

VI. An act to divide Jefferson County, and for other purposes therein mentioned.

(Paſſed Jan. 27, 1802.)

Sec. 1. *Be it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, and it is* *hereby enacted by the authority of the same*, That the said County of Jefferson shall be divided as follows, to wit:—Beginning on the river Mississippi, at the mouth of the Petit-Gulf Creek; thence running up the main branch of the said creek four miles, or to its source, should that not exceed four miles; thence by a line to be drawn due east, to the eastern territorial line;—And all that tract of country north of the above mentioned creek, and east line, south of the northern boundary of the said Territory, and east of the Mississippi river, shall compose a County, which shall be called CLAIBORNE.

VII. An act to divide Adams County, and for other purposes therein mentioned.

(Paſſed Jan. 30, 1802.)

Sec. 1. *Be it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, and it is hereby enacted by the authority of the same*, That the County of Adams shall be divided as follows, to wit:—Beginning on the river Mississippi, at the mouth of Homochitto river to Richard's ferry; thence by a line running due east to the western boundary of Washington County:—And all that tract of country south of the above described boundary, to the line of demarcation, shall compose a county, which shall be called WILKINSON.

VIII. An act to establish the permanent seat of justice in Claiborne County, and for other purposes.

(Paſſed March 12, 1803.)

Sec. 1. Whereas great inconveniences ariſe to the citizens of Claiborne County, from the uncertainty of their boundary line with Jefferson County, and likewise from the very improper situation chosen for their seat of justice:

Be it therefore enacted by the Legislative Council and House of Representatives of the Mississippi

Territory, in General Assembly convened, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the boundary line between the two said Counties of Jefferson and Claiborne, shall be as follows, to wit:—Beginning on the bank of the river Mississippi, at the lower end of the Petit-Gulf Hills, running thence a direct course to the northern-most part of the tract of land now occupied by Robert Trimble, on the waters of Taber's creek, of Bayau-Pierre; continuing the same course, until it shall intersect the road going from Henry Green's plantation to the Grindstone Ford, and thence due east to the territorial line; and that the seat of justice for the County of Claiborne aforesaid, be and the same is hereby established at the place commonly called Gibson's Landing, on the south fork of the Bayau-Pierre.

CHAP. II.

An act declaratory of the boundaries of Washington County.

BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That nothing contained in the "Act to establish the permanent seat of justice in Claiborne County, and for other purposes," or in any other act of the General Assembly, shall be so construed as to alter the boundaries of Washington County, as established by the proclamation of the Governor of the Mississippi Territory.

JOHN ELLIS, *Speaker of the House of Representatives.*
JOSHUA BAKER, *President of the Legislative Council.*

Approved—*Feb.* 7, 1807.
ROBERT WILLIAMS, *Governor of the Mississippi Territory.*

PART II.

LAWS RELATING TO THE GENERAL ASSEMBLY, AND TO THE PROMULGATION OF THE LAWS.

CHAP. I.

An act regulating Elections.

TIME OF ELECTIONS.

Sec. 1. *Be it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That the next election of members for the House of Representatives for this Territory, shall be holden on the fourth Monday of July, in the year 1808; and that every future election shall hereafter commence on the same day in every second year.

PLACES OF HOLDING THEM.

Sec. 2. *And be it further enacted,* That the court-houses, or places for holding courts, in the several counties, shall respectively be considered as the places of holding the said elections.

SUPERINTENDANTS TO BE APPOINTED.

Sec. 3. *And be it further enacted,* That the county courts respectively, at the session next preceding the day of election, in every two years, shall appoint three inspectors, to superintend the election; and in the cases where no county court shall sit, previous to the first election, to be holden under this act; or if it shall at any time happen, that any county court shall fail to make such appointment; or any person so appointed, shall refuse to serve, the sheriff, with the advice of three justices of the peace; or if no justices shall be present, three respectable freeholders, shall before the beginning of such election, appoint inspectors for the purpose aforesaid.—Every inspector, who shall be so appointed, by either of the ways aforesaid, and serving, pursuant to such appointment, shall be deemed and held a lawful inspector, at such election.

THE HOUR OF OPENING AND CLOSING ELECTIONS.

Sec. 4. *And be it further enacted*, That the sheriffs of the respective counties shall open every election, hereafter to be holden in this Territory, for members of the House of Representatives, at twelve of the clock in the forenoon; and shall close at the hour of two in the afternoon, on the subsequent day.

TWO CLERKS TO BE APPOINTED.

Sec. 5. *And be it further enacted*, That the inspectors shall appoint two persons, to act as clerks, at every election; who shall take down on separate lists, the name of every person voting.

OATH OF CLERKS, AND SUPERINTENDANTS.

Sec. 6. *And be it further enacted*, That the clerks and inspectors, at every such election, shall, before they proceed to business, swear, or affirm, as the case may be, faithfully to perform their duties, at such election, justly and agreeably to law, according to the best of their skill and judgment.

THE CORONER TO ACT FOR WANT OF A SHERIFF.

Sec. 7. *And be it further enacted*, That if at any time it shall happen, that there shall be no sheriff in any county, qualified according to law, the coroner of such county; or if there be neither sheriff nor coroner, the justice of the peace who is oldest in commission, is hereby authorised to perform the duties, which by this act are enjoined upon the sheriff, and shall be considered as the returning officer for such county.

MODE OF VOTING.

Sec. 8. *And be it further enacted,* That every person, who by the laws of this Territory, is entitled to vote for Representatives in the General Assembly, and shall attend for that purpose at any election, shall give to the sheriff, coroner, or justice, who may be the returning officer, in presence of the inspector, a ticket or scroll of paper, rolled up, in which shall be written the name or names of the person or persons for whom he intends to vote: which ticket the said returning officer shall, in the presence of the inspectors, put into a ballot-box, to be provided for that purpose by the sheriff; and at the same time, the inspectors and clerks of the election, shall take down in separate lists, the name of every person voting;—and when the election shall be finished, the returning officer and inspectors shall in presence of such of the candidates and electors as may chuse to attend, open the box and number the ballots; at the same time reading aloud the names of the persons who shall appear on each ticket; which shall be taken down by the clerks, in the presence of the said returning officer and inspectors;—and if there shall appear two tickets rolled up together, or if any ticket shall contain the names of more persons than such elector had a right to vote for; in either of these cases, such ticket shall not be numbered, but shall be adjudged void; and when the tickets shall be numbered, the persons having the greatest number of ballots shall be declared duly elected, unless in the counties herein after particularly mentioned: but where two persons shall have an equal number of votes, the returning officer shall have the casting vote, but shall not vote in any other case whatsoever; and it shall be the duty of the said returning officer, to certify in writing, the names of the persons duly elected; which certificate shall be delivered to each Representative, so chosen as aforesaid.

PROVISIONS FOR EXCLUDING AND PUNISHING UNQUALIFIED VOTERS.

Sec. 9. *And be it further enacted*, That no elector shall be polled before he shall have declared, if so required to do, by any candidate or his agent, in what right he offers to vote, and shall have taken an oath, which the returning officer shall administer, or make a solemn affirmation, in the following form: "I, A. B. do swear, or do solemnly affirm, that I do in my conscience believe myself qualified to vote for Members of the House of Representatives, according to the ordinances and acts of Congress for the government of this Territory. So help me God."

If any person shall hereafter vote at any election, who shall not by law be entitled to vote for Representatives, he shall forfeit and pay the sum of two hundred dollars; to be recovered with costs, by action of debt, in any court of record in this territory, by any person or persons who shall sue for the same. When any suit shall be brought against any person for voting as aforesaid, the burthen of making proof shall be upon the plaintiff.

HOW VOTES ARE TO BE TAKEN WHERE TWO COUNTIES ARE JOINTLY REPRESENTED.

Sec. 10. *And whereas* the new counties of Claiborne and Wilkinson are not entitled to a separate representation; and it would be inconvenient for the inhabitants of the said new counties to attend at the places of holding elections in the old counties: Therefore, *Be it enacted*, That the sheriffs, coroners, or oldest justices, as the case may be, of the said counties, shall hold an election, at their respective court-houses, or places of holding courts, for the said new counties, on the same days as elections shall be held upon in other counties, under this act; and the sheriff or coroner, or oldest justice, as the case may be, of each of the said new and old counties, hereinafter mentioned, shall meet on the first Thursday next ensuing such election, to compare the votes received by them in each county: and the persons voted for in either, or both counties, having the highest number of votes of both counties, shall be declared duly elected.

For the counties of Jefferson and Claiborne, the sheriffs, coroners, or oldest justices, as the case may be, shall meet at the place for holding Jefferson court; and the sheriff, coroner, or oldest justice of Jefferson, shall be the returning officer, in signing credentials for those elected within the bounds, of formerly Pickering, now Jefferson and Claiborne counties; and the sheriffs, coroners, or oldest justices, as the case may be, of Adams and Wilkinson, shall meet at the place of holding the courts in Adams county; and the sheriff or coroner, or oldest justice of Adams county, shall be the returning officer in signing credentials for those elected within the bounds of, formerly Adams, now Adams and Wilkinson counties.

LISTS OF VOTERS AND VOTES, TO BE PREPARED BY THE RETURNING OFFICER.

Sec. 11. *And be it further enacted*, That the returning officer, within ten days after any election, shall, at the request of any person elected to serve in the General Assembly, or other person in his behalf, cause a true copy of the list of voters, and the number of votes for each candidate, to be made out and delivered to the person requesting the same; which list and numbers shall be signed by the returning officer. If any returning officer shall refuse so to do, or shall hold elections in any other manner, than is by this act directed, or shall neglect or refuse to make returns of the elections held by him, he shall forfeit and pay the sum of one thousand dollars; to be recovered by action of debt in any court of record in this territory: one half to the use of the territory, and the other half to the use of him who shall sue for the same.

PENALTY FOR BRIBERY.

Sec. 12. *And be it further enacted,* That any person elected to serve as a Member in the House of Representatives in this territory, who shall directly or indirectly give, or agree to give to any elector, or pretended elector, money, meat, drink, or other reward, in order to be elected, or for having been elected, for any county, shall be expelled, and forever after disabled from holding any office of profit or trust under this government.

OATH OF OFFICE.

Sec. 13. *And be it further enacted,* That every person who shall be hereafter elected and returned to serve as a Member of the House of Representatives, or appointed to serve as a Member of the Legislative Council of this territory, previous to his taking his seat, shall take and subscribe, before the Governor, the following oath or affirmation, viz:— "I, A. B. do solemnly swear (or affirm) that I am duly qualified to be chosen and serve as a Member of the Legislative Council (or House of Representatives) for the district of ——— according to the true intent and meaning of the ordinances of the acts of Congress for the government of this territory. So help me God."

HOW VACANCIES ARE TO BE FILLED.

Sec. 14. *And be it further enacted*, That if any vacancies should happen in the House of Representatives, the Governor of the territory, for the time being, shall issue writs of election, to fill such vacancies, and such elections holden by virtue of any writ from the Governor, shall be conducted and regulated in the same manner as is by this act prescribed, as far as the general rules can be applied to the particular case.

ELECTIONS TO BE CONDUCTED FAIRLY AND PEACEABLY.

Sec. 15. *And be it further enacted*, That the inspectors of elections shall take care that such elections be conducted with fairness and agreeably to law. They shall endeavor to prevent all riotous and disorderly behavior; and for this purpose shall have authority to commit to prison, for a period not exceeding two days, any person or persons, who by such riotous or disorderly behavior, shall disturb the fair and legal course of such elections. They shall question the legal qualifications of any person applying to vote, of which they may have doubts. They shall prevent one and the same freeholder from voting twice; and shall read, or cause to be read, this act, immediately after the polls are opened: for which purpose the sheriff is required to furnish them with a copy.

PENALTY FOR VOTING TWICE, OR VOTING OUT OF ONE'S OWN COUNTY.

Sec. 16. *And be it further enacted*, That if any

person shall vote twice in the same county or district where he resides, he shall forfeit and pay two hundred dollars; to be recovered in any court of record in this territory: one half to the use of the territory, the other half to the use of him who shall sue for the same.

CHAP. II.

An Act *directing that the next Session of the General Assembly shall be held at the Town of Washington.* Passed Feb. 1, 1802.

BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, That both Houses of the General Assembly shall meet, and be convened at the Town of Washington, there to hold their next ensuing session.

Sec. 2. *And be it further enacted,* That the offices of the Secretary of the Council and of the Clerk of the House of Representatives, shall be removed by their respective holders, to the said Town of Washington; and from and after the close of the present session of the General Assembly of this territory, the said offices shall cease to be exercised elsewhere.

Sec. 3. *And be it further enacted,* That the expence attending the removal of the papers, books, furniture, &c. shall be defrayed out of the territorial treasury.

CHAP. III.

An Act *allowing compensation to the several public officers therein mentioned, and for other purposes.* Passed March 2, 1805.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi*

Territory, in General Assembly convened, That the President of the Council and Speaker of the House of Representatives, shall each be entitled to receive five dollars; and each Member of the Council and Houſe of Representatives four dollars, for each and every day's attendance at the General Assembly; and shall moreover be allowed, at the commencement and end of every session, four dollars for every twenty miles, of the estimated distance by the most usual road, from the place of residence of the President, Speaker, and each Member respectively to the seat of government, or where the General Assembly may be convened: and in that proportion for a less distance: and in case any Member of the Council or House of Representatives shall be detained by sickness on his journey to, or from any such session or meeting, or after his arrival, shall, from the same cause, be unable to attend the house to which he belongs, he shall notwithstanding, be entitled to the same daily allowance.

The compenſation of members of the aſſembly.

Sec. 2. *And be it further enacted,* That the Secretary of the Council and Clerk of the House of Representatives shall be allowed six dollars per day each: and the said Secretary and Clerk shall each be allowed, when the President of the Council and Speaker of the House of Representatives shall deem it necessary, to employ one or more engrossing Clerks: who shall be paid three dollars per day each, for every day he or they shall be necessarily employed.

of the Secretary of the Council and Clerk of the Houſe of R. and of the Engroſſing Clerks.

Sec. 3. *And be it further enacted,* That the Sergeant at Arms shall be allowed three dollars per day for every day's attendance during each session, and whilst employed in the business of either house.

of the Sergeant at Arms.

Sec. 4. *And be it further enacted,* That the Door-Keeper of each house shall be allowed two dollars per day for each day employed in the service of either house during each session.

and of the Door-keeper.

How ſaid compenſation to be certified to the Audit.

Sec. 5. *And be it further enacted,* That the said compensation which shall be due to the members and officers of either House, shall be certified by the President of the Council or Speaker of the House of Representatives, respectively as the case may require, to the Auditor of Public Accounts: who shall issue his warrant therefor, and the same shall be paid out of the Territorial Treasury.—*Provided,* That the compensation of the Sergeant at Arms shall be certified by the President and Speaker.

Appropriation for contingent expences.

Sec. 6. *And be it further enacted.* That the sum of three hundred dollars be appropriated for stationary, candles, fire-wood, and all other necessary contingent expences, not otherwise provided for; which claims being previously examined and approved by the Assembly, shall be certified by the President and Speaker, and paid out of the Territorial Treasury as aforesaid.

CHAP. IV.

AN ACT *to provide for the Public Printing in this Territory.*

CORRECT COPIES OF THE ACTS TO BE MADE.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That whenever a bill shall pass the two Houses of Assembly, and having received the Governor's assent, shall become a law; the Secretary shall as soon as conveniently may be, after he shall receive the same, make out and deliver an attested copy thereof to the Public Printers, in order that publication may be made.—It shall be the duty of the Secretary carefully to compare printed copies with the originals; and by making the necessary corrections, to take care that the said printed copies be literally true.

MODE AND TIME OF PRINTING.

Sec. 2. *And be it further enacted*, That *three hundred* copies of the laws of every session of the General Assembly, shall be printed by the Public Printers; allowing one month after the rising of the General Assembly, for every 64 pages which the same may contain: with marginal notes, on an octavo page of the same size, type, number of lines, and quality of paper; and in as close work as the laws of the last session of the General Assembly of this territory, under the direction and superintendance of the Governor; and also *one hundred* copies of the Journals of the Legislative Council, and *one hundred* copies of the Journals of the House of Representatives of this territory; within the time before mentioned; on the same sized page, type, and quality of paper, in close work; as the acts of the last session of the Legislature of this territory, under the direction and examination of their Secretary and Clerk, respectively.

ON NEGLECT OF THE PUBLIC PRINTER, OTHERS TO BE EMPLOYED.

Sec. 3. *And be it further enacted*, That if the Public Printers for the time being, shall at any time refuse or neglect to print the Laws and Journals within the time directed in this act; then, and in that case, the Governor shall and may employ another Printer to perform the said services; or he may take such other measures to effect their publication as he may deem proper; and the expence attending the same shall be paid in the same manner as is directed in the third section of this act.

DISTRIBUTION OF THE LAWS.

Sec. 4. *And be it further enacted*, That the said laws shall be distributed as follows, to wit;—One copy to the Governor, one to the Secretary, one to each of the Territorial Judges, one to each Attorney-General, one to each Member of the General Assembly, one to each Justice of the Peace, one to each Sheriff, one to each Coroner, one to the Secretary of the Council, one to the Clerk of the House of Representatives, and one to the Clerk of each Court of Record within this territory, one copy to the President of the U. S. and one copy to the Governor of every state and territory in the union; and the residue shall be distributed as the Governor shall direct. The said Journals shall be distributed as follows, to wit:—One copy of the Journals of each House to the Governor, one to the Secretary of the territory, one to each Member of the General Assembly, one to the Secretary of the Council, one to the Clerk of the House of Representatives, one to the Captain of every militia company, and the residue to be distributed as the Governor shall direct.

Sec. 5. *And be it further enacted*, That the copies of the said Laws shall be distributed by the Governor, and the copies of the said Journals, by the Secretary and Clerk of the Houses respectively; and the Secretary of the Territory shall be allowed by the Auditor of Public Accounts reasonable clerk-hire, for copying and comparing the original rolls of the said Laws.

APPOINTMENT OF A PUBLIC PRINTER.

Sec. 6. *And be it further enacted*, That a Public Printer shall be annually appointed, by a resolution of the General Assembly.

CHAP. V.

AN ACT *to adopt the Digest of the Laws of the Mississippi Territory, prepared agreeably to a resolution passed at the last Session of the General Assembly, and for other purposes therein mentioned.*

WHEREAS in consequence of a resolution of the General Assembly of this territory, passed at the last session, the Governor of this territory did accordingly employ HARRY TOULMIN, Esquire, one of the Judges of the same, to compile a Digest of the Statutes now in force; and whereas the said Digest has been laid before the present General Assembly, and has been examined and amended:

Sec. 1. *Be it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That the said Digest, containing the acts hereinafter mentioned, is received and established as the law of the said territory, viz:—

"An act containing so much of former laws as establishes the territorial and county lines;"

"An act regulating elections;"

"An act directing that the next session of the General Assembly shall be held at the town of Washington;"

"An act allowing compensation to the several public officers therein mentioned, and for other purposes;"

"An act to provide for the public printing in this territory;"

"An act creating the offices and defining the duties of the territorial and county treasurers;"

"An act for the appointment of an auditor of public accounts, ascertaining his duties in office, and for other purposes;"

"An act to organize the militia;"

"An act for the appointment of justices of the peace, and the establishment of county courts;"

"An act establishing superior courts, and declaring the powers of the territorial judges;"

"An act to assist poor persons in their suits, and to enable infants to sue by their next friends;"

"An act to erect the town of Natchez into a city, and to incorporate the same;"

"An act supplemental to the act entitled "an act to erect the town of Natchez into a city, and to incorporate the same;"

"An act concerning bail in civil cases;"

"An act directing the method of proceeding in courts of common law and equity against absconding debtors and other absent defendants;"

"An act for the easy and speedy recovery of small debts;"

"An act concerning witnesses;"

"An act concerning juries;"

"An act concerning executions, and for the relief of insolvent debtors;"

"An act establishing the place where the officers therein named shall keep their respective offices;"

"An act regulating the fees of public officers;"

"An act directing the building and establishing of a court-house, jail, pillory, whipping post and stocks, in every county;"

"An act for the well regulating of jails;"

"An act respecting sheriffs and coroners;"

"An act prescribing the duties of constables;"

"An act concerning counsel and attornies at law;"

"An act concerning attornies general;"

"An act respecting oaths of office;"

"An act to render promissary notes and cotton receipts negociable, and for other purposes;"

"An act concerning defalcation;"

"An act to prevent suits abating on the death of either party;"

"An act for the limitations of actions, and for avoiding vexatious law suits;"

"An act for the relief of creditors, by making composition with their debtors, in case two thirds in number and value do agree;"

"An act respecting conveyances;"

"An act for the more easy partition of land held by co-partners, joint tenants and tenants in common;"

"An act to prevent the liberation of slaves only in cases hereafter named, and for other purposes;"

"An act to prevent frauds and perjuries;"

"An act concerning forcible entries and detainers;"

An act to prevent trespasses in certain cases, and declaring what shall be deemed a lawful enclosure;"

"An act concerning wills and testaments, the settlements of intestates estates, and the duties of executors, administrators and guardians;"

"An act for the punishment of crimes and misdemeanors;"

"An act to provide for the more effectual administration of justice;"

"An act for the more effectual preservation of personal liberty;"

"An act for the suppression of vice and immorality;"

"An act to restrain idle and disorderly persons;"

"An act to regulate taverns and restrain tipling houses;"

"An act to prevent unlawful hunting, and for other purposes:"

"An act regulating the solemnization of marriages;"

"An act concerning divorce and alimony;"

"An act concerning aliens;"

“ An act to prevent the importation of distempered cattle into this territory ;”

“ An act to prevent the importation and spreading the small pox and other contagious diseases ;”

“ An act respecting slaves ;”

“ An act to amend and reduce into one the several acts concerning public roads, highways, ferries and bridges, within this territory ;”

“ An act for improving the navigation of the river named Bayau-Pierre, in Claiborne county ;”

“ An act concerning strays, for improving the breed of horses, to prevent the stealing of cattle, directing the brands and marks thereof to be recorded ;”

“ An act concerning the brands and marks of cattle and other stock ;“

“ An act against usury ;“

“ An act concerning notaries public ;“

“ An act to incorporate the Mississippi Society for the acquirement and dissemination of useful knowledge ;“

“ An act to establish a college in the Mississippi territory ;“

“ An act for establishing a permanent site for Jefferson college ;“

“ An act for the settlement and relief of the poor ;“

“ An act to establish a hospital in the city of Natchez, and for incorporating trustees of the same :“

Sec. 2. *And be it further enacted*, That so soon as the acts passed at the present session of the General Assembly shall have received the Governor's assent, it shall be the duty of the said Harry Toulmin, Esquire, to introduce the same into the Digest before mentioned, and likewise to expunge from the said Digest such acts and parts of acts as are thereby repealed : after which the same shall be delivered to the Public Printer, who shall take an oath before some justice of the peace, to print the same with care and accuracy, and to use his best endeavors to preserve the copy from injury.

Sec. 3. *And be it further enacted*, That it shall be the duty of the said Harry Toulmin, Esquire, to compare the printed copy with the original, and to correct, in a proper table to be annexed thereto, whatever errors affecting the sense, he may discover in the printed copy, and to add a proper index and table of contents.

Sec. 4. *And be it further enacted*, That the said Digest and acts of the present session shall, when printed, be entitled "The Statutes of the Mississippi territory, revised and digested by the authority of the General Assembly:" and that from and after the first day of October next, all the laws of the Governor and Judges, all the acts of the General Assembly of the Mississippi territory, and all statutes of England and Great-Britain, not contained in the said volume of statutes, shall cease to have any force or validity in this territory: *Provided nevertheless*, That nothing herein contained shall be so construed as to affect the following private or local acts, viz:

"An act to alter the name of Pickering county, and for other purposes;"

"An act appointing commissioners for the purpose of establishing a permanent seat of justice in the county of Washington, and for other purposes," and the act supplemental thereto.

"An act to divide Jefferson County, and for other purposes therein mentioned:"

"An act for appointing the place of holding the superior courts for Jefferson county, and for other purposes:"

"An act to divide Adams county, and for other purposes therein mentioned;"

"An act to ascertain the boundary line between the counties of Adams and Jefferson:"

"An act to establish a permanent seat of justice in Claiborne county, and for other purposes:"

"An act to establish a permanent seat of justice for the district and county of Adams;" and the act to amend the same.

"An act to alter part of the act entitled "An act appointing the place of holding superior courts for Jefferson district, and the county-courts for Jefferson county, and for other purposes:"

"An act for the relief of John Randon and others:

The acts establishing the towns of Wakefield and Greenville:

"An act providing for the erection of a jail in Jefferson County, in Greenville," and the act supplemental thereto.

"An act to provide for the erection of a jail, pillory and stocks, for the county of Wilkinson:"

"An act to emancipate certain slaves therein mentioned:"

And the several acts granting divorces, and also all resolutions of the General Assembly of this territory.

Sec. 5. *And be it further enacted*, That the said Harry Toulmin be, and he is hereby requested, to prepare a set of forms, and brief general principles, for the information of the justices of the peace, and likewise to furnish the Public Printer with copies of the constitution of the United States, with the amendments thereto, and of such ordinances and acts of Congress as relates to the Mississippi territory, to land titles within the same, to crimes and misdemeanors, and the intercourse with the Indian nations, with the articles of agreement and cession between the United States and the state of Georgia;

and that the whole be added to the volume of statutes aforesaid.

Sec. 6. *And be it further enacted*, That there shall be printed two hundred copies of the said volume, which shall be delivered to the Governor, who is hereby requested to have the same half-bound, and to cause them to be distributed in the same manner as the acts of the several sessions of the General Assembly are directed to be distributed.

Sec. 7. *And be it further enacted*, That no other copies of the acts of the present session shall be printed at the public expence.

JOHN ELLIS, *Speaker of the House of Representatives.*
JOSHUA BAKER, *President of the Legislative Council.*

Approved—*February* 10, 1807.
ROBERT WILLIAMS, *Governor of the Mississippi Territory.*

CHAP. VI.

AN ACT *allowing compensation to Harry Toulmin; and to provide for the Public Printing to be done in the Year* 1807.

Compenſtion to Harry Toulmin.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That the Auditor of Public Accounts be, and he is hereby authorised to issue his warrant on the territorial treasurer for twelve hundred dollars, in favor of Harry Toulmin, Esq. in full compensation for his services in preparing a Digest of the Laws of this territory, agreeably to a resolution of the last General Assembly, and for performing the duties required of him in an act entitled "An act to adopt the Digest of the Laws of the Mississippi territory, prepared agreeably to a resolution passed at the last session of the General Assembly, and for other purposes therein mentioned."

Samuel Terrell appointed Public Printer.

Sec. 2. *And be it further enacted*, That Samuel Terrell be, and he is hereby appointed Public Printer for and during the term of one year from the first day of December last: *Provided*, That the said Samuel Terrell do give bond with sufficient security in the penal sum of four thousand dollars, for the true performance and completion of the Public Printing as required of him by this act, which bond shall be taken by and made payable to the Governor of the territory for the time being, and his successors in office.

Number of laws & journals to be printed.

Sec. 3. *And be it further enacted*, That two hundred copies of the Digest of the Laws of the Mississippi territory, prepared by the Honorable Harry Toulmin, including the Laws passed at the present session of the General Assembly, shall be printed by the said Public Printer, on or before the first day of October next, with marginal notes, on an octavo page, of the same size, type, number of lines and quality of paper (in close work) as the Journal of the last session of the Congress of the United States, under the direction, superintendance and examination of the Secretary of this territory; and also one hundred copies of the Journal of the Legislative Council, and one hundred copies of the Journal of the House of Representatives of this territory, within the time before mentioned, on the same page, type and quality of paper (in close work) as the Journals of the last session of the Legislature of this territory, under the direction, superintendance and examination of the Secretary of the Council and Clerk of the House of Representatives, respectively.

Sec. 4. *And be it further enacted*, That said Printer shall receive for said two hundred copies of said Laws, at the rate of one dollar per page, for the number of pages contained in one of said copies, and at the rate of two dollars per page, for every page contained in one copy of said one hundred Journals, to be paid by the territorial treasurer on the auditor's warrant; which warrant shall be issued on the receipt of the Secretary of the territory, certifying the number of pages, and the sum to which said Printer is entitled to for the same: and said Printer shall receive for all miscellaneous printing done by order of either House during the session, two dollars per folio page (the number of copies not exceeding one hundred) to be audited and paid as aforesaid, on the certificate of the President of the Council or Speaker of the House of Representatives.

Printer's compensation.

Sec. 5. *And be it further enacted*, That the copies of said Laws shall be distributed by the Secretary of the territory, and said Journals by the Secretary and Clerk of the respective Houses, and the Secretary shall be allowed by the Auditor of Public Accounts, reasonable and necessary clerk-hire, for copying and comparing the original rolls of said Laws.

By whom distributed.

JOHN ELLIS, *Speaker of the House of Representatives.*

JOSHUA BAKER, *President of the Legislative Council.*

Approved—*February* 10, 1807.

ROBERT WILLIAMS, *Governor of the Mississippi Territory.*

PART III.

LAWS RELATING TO THE PUBLIC REVENUE.

CHAP. I.

An Act *creating the offices and defining the duties of Territorial and County Treasurers.*

TREASURERS TO BE APPOINTED.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That there shall be appointed and commissioned by the Governor, from time to time, one Treasurer for the territory, under the title of Territorial Treasurer; who shall keep his office at the place designated by law, for the sitting of the General Assembly; and shall be allowed 50 dollars a year for office rent. There shall likewise be appointed one Treasurer in every county, under the title of County Treasurer; who shall each, severally, prior to the entering upon the duties of his office, take and subscribe an oath of office, and give bond with sufficient sureties; the territorial treasurer in the penal sum of twenty thousand dollars; and the county treasurers in the penal sum of five thousand dollars; each payable to the Governor of the Mississippi territory, and his successors in office.

BOND OF THE TERRITORIAL TREASURER.

Sec. 2. *And be it further enacted,* That the condition of the territorial treasurer's bond shall be in the words, or to the effect following, to wit:— "The condition of this obligation is such, that if the above bounden —— ——, shall from time to time, and at all times, render a just and true account, to the Legislature of the Mississippi territory, when by them thereunto required, of all the monies, securities, stock, and other property, of the said territory, which shall come to his hands, or be committed to his charge; and deliver the monies, securities, stock, and other property, of the said territory, in his hands, together with all documents, instruments of writing, papers and books belonging to, or for the use of the said territory, to his successor in office; and shall well, honestly and faithfully perform all the duties of his office; and shall answer for all improper appropriations, waste, embezzlement, or destruction of the said monies, securities, stock, property, documents, instruments of writing, papers or books, which shall be done or committed by any person or persons, to be by him employed in the said office: then this obligation to be void, otherwise to be and remain in full force and virtue."— Which bond shall be executed before the Governor, and with the oath thereon endorsed; filed in the office of the territorial secretary.

COUNTY TREASURERS' BONDS.

Sec. 3. *And be it further enacted*, That the condition of the bond of the county treasurer shall be the same as that of the territorial treasurer; changing therein the words "Legislature of the Mississippi territory," into "county court;" and the word "territory" into "county;" which bond shall be executed before two justices of the peace, and with the oath thereunto endorsed, filed in the office of the clerk of the court of the county, wherein he is appointed.

ADJUSTMENT OF ACCOUNTS WHEN OUT OF OFFICE.

Sec. 4. *And be it further enacted*, That if any treasurer die, resign, be discharged, or cease to hold his office; then such treasurer; or if he be dead, his heirs, executors or administrators, shall fairly and regularly state the account, and deliver the monies, securities, stock, property, instruments of writing and books of the territory, or county, in his possession, to the succeeding treasurer; who, if a territorial treasurer, shall make report thereon to the legislature; or if a county treasurer, to the county court; and the said report, if confirmed by the legislature or county court, shall be a discharge of the late treasurer's bond; which in such case shall be delivered to the said treasurer, or his heirs, executors or administrators.

DUTY OF THE TREASURERS.

Sec. 5. *And be it further enacted*, That it shall be the duty of the said treasurers to receive and keep the monies of the territory or county, for which they are appointed; to disburse the same agreeably to law, and take receipts for all monies which they shall pay; to keep accounts of the receipts and expenditures of the public money, and in the case of county treasurers, to keep accounts of all debts due to or from the counties respectively, for which they are treasurers; and direct prosecutions for debts that are or shall be due to the county, for which they are appointed.—And for this purpose they shall be furnished by the clerks of the several courts of justice respectively, once in every year, with authenticated extracts from the records and dockets of their respective courts, of all fines, forfeitures, amercements, escheats, judgments and orders entered in such courts, whereby monies may be accruing or arising to the use of the counties respectively. And if any clerk as aforesaid, shall neglect his duty herein, he shall be liable to pay a fine to the use of the county, in the discretion of the court where tried, not exceeding two hundred dollars, to be levied by complaint of any county treasurer, or of any attorney-general; and on conviction thereof had in any court of competent jurisdiction.

TERRITORIAL TREASURER TO MAKE REPORTS TO THE LEGISLATURE.

Sec. 6. *And be it further enacted,* That it shall be the duty of the territorial treasurer to make reports and give information to the legislature of this territory; or in their recess, to the Governor, in person, or in writing, as he may be required, respecting all matters referred to him; or which shall in any wise appertain to his office; and generally to perform all such services relative to the finances as he shall be directed to perform.—And it shall moreover be his duty to prepare and lay before the General Assembly, at the commencement of each annual session thereof, a report on the subject of finance, containing estimates of the public revenue and public expenditures, for the purpose of giving information to the General Assembly, in adopting modes for raising the money requisite to meet the public expenditures.

THE COUNTY TREASURERS TO MAKE REPORTS TO THE COUNTY COURTS.

Sec. 7. *And be it further enacted,* That it shall be the duty of the county treasurers, respectively, to make reports and give information to the county courts of the counties wherein they are appointed, in person, when thereunto required, respecting all matters in any wise belonging to their offices, and generally to perform all such services relative to the finances of the counties, as they shall be directed to perform.

TREASURER'S ACCOUNTS, HOW TO BE KEPT.

Sec. 8. *And be it further enacted,* That it shall be the duty of the said treasurers, and every of them, to state in fair books, the amount of monies which they shall receive for taxes, impositions, debts, fines, penalties, forfeitures, or any other account whatsoever, for, or in behalf of this territory, or of the county in which they are respectively appointed: and which they shall pay in pursuance of acts of the Legislature, in such manner as that the nett produce of the whole revenue, as well as of every branch thereof, and the amount of disbursements, in payment of the several demands, may distinctly appear; and the territorial treasurer shall, from time to time, lay the same and all other his proceedings, relative to his office, before the Legislature; and each of the county treasurers shall, in like manner, lay the same, from time to time, and all other their proceedings, relative to their office, before the county court of the county wherein they are appointed.

TREASURERS TO RETAIN FIVE PER CENTUM.

Sec. 9. *And be it further enacted*, That the treasurers to be appointed by virtue of this act, shall and may retain, for their own use, out of all public monies which shall come to their hands, as full compensation for all services and expences incidental to their offices, a sum, after the rate of five per centum, and no more.

CHAP. II.

An Act *for the appointment of an Auditor of Public Accounts, ascertaining his duties in office, and for other purposes.* (Passed March 1, 1806.)

OATH AND BOND OF THE AUDITOR.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi*

Territory, in General Assembly convened, That there shall be appointed, by the Governor of this territory, for the time being, an Auditor of Public Accounts, who, before he shall be qualified to act, shall take an oath, impartially and honestly to discharge the duties of his said office; and shall give bond, with two or more sufficient securities, payable to the Governor, for the time being, and his successors in office, in the penal sum of five thousand dollars; conditioned for the faithful discharge of the duties of the said office. The said auditor shall keep his office in the place designated by law for the sitting of the General Assembly; and shall be allowed the sum of fifty dollars a year for office rent.

HIS DUTIES.

Sec. 2. *And be it further enacted*, That it shall be the duty of the said auditor, to examine, state, settle and audit all accounts, claims or demands whatsoever, against the territory, arising under any law or resolution of the Legislature;* and to grant to every claimant, authorised to receive the same, a warrant on the territorial treasurer, under his hand and seal of office; making due entry and register of all his proceedings, in a book to be kept for that purpose; and carefully arranging, filing, and preserving in his office, all accounts, receipts, vouchers and papers, touching the same; to examine, settle and audit the accounts of all public debtors, collectors of any tax or revenue, levied by act of the Legislature, and payable to the territorial treasurer; to call upon all such debtors, to render accounts, and pay into the treasury all sums and balances due: and on their failure so to do, to institute proceedings against them at law; to require information on oath, from any person, party or privy, of any matter, relative to any account under his examination, and material for his information; to state and keep the accounts, so as to shew the amount of all warrants by him drawn on the treasurer, for what services or articles of public expence they were given; and to lay before the General Assembly, annually, and as often as thereto required, the general accounts, together with an account of all balances due to and from the territory.

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* See the two next chapters.

TO FURNISH FORMS AND REGULATE AND EXAMINE BOOKS AND ACCOUNTS.

Sec. 3. *And be it further enacted*, That it shall be the duty of the said auditor to decide on the official forms of all papers to be issued for collecting the public revenue, and the manner and form of keeping the accounts of persons employed therein: and the books and accounts of the treasurer and all other persons concerned in the collection and safe keeping of the public monies or funds of this territory, shall at all seasonable times, be open to the examination and inspection of the said auditor.

NO MONIES TO BE PAID BUT ON WARRANTS.

Sec. 4. *And be it further enacted*, That it shall not be lawful for the territorial treasurer, to pay or receive any public money but on warrant or certificate from said auditor; who shall begin on the first day of January annually, and number each warrant for the payment of money, beginning at number one, and continuing progressively until the last day of December following, inclusive.

OF CLAIMS ANTECEDENT TO THE 1st APRIL, 1805.

Sec. 5. *And be it further enacted*, That the said auditor shall open his office on the first Monday in

April next; he shall keep books for the registry of all legal debts and demands, of every denomination, kind, or nature soever; for which any person or persons hold any warrants or certificates, issued by lawful authority, before the said first day of April next, and chargeable on the territorial treasury, or the county treasury of any county in this territory: and file and preserve in his office the warrants and certificates so taken up; and where any warrant or certificate shall appear to have been issued by any particular county, and chargeable on the same, the said auditor shall deliver to the owner or bearer of such warrant or certificate, a certified copy thereof; which certified copy shall authorise him or her holding the same, to draw the amount specified therein out of the treasury of the proper county: and where the demand shall appear to be of a general nature, and against the territory; of which description shall be considered all debts and demands, which have been incurred for apprehending, securing, supporting or prosecuting criminals within this territory, as well as all other demands, where the territory generally is concerned; the said auditor shall issue his warrant on the territorial treasurer in favour of the holder or bearer, for the amount called for, in any such warrant or certificate: and the said books shall be kept open for the purpose aforesaid, until the first day of November next: and any person who shall refuse or neglect to exhibit such debt or demand into the office of the auditor, on or before the said first day of November next, shall, from and after that day, be forever barred and excluded as a creditor of this territory, or of any county therein; and it shall be the duty of the said auditor to report and state to the Legislature at their first session next succeeding the said first day of November, the nature and extent of the said claims. It shall be the duty of each county treasurer to state to the said auditor, on or before the said day, the amount of all taxes theretofore assessed and collected in his county, and all monies that may have come into his hands as treasurer, and the disbursements thereof; which accounts and statements the said auditor shall also report to the Legislature of this territory.

MODE OF AUDITING COUNTY CLAIMS.

Sec. 6. *And be it further enacted*, That the justices of the county court of each county, (the chief justice of the orphans' court being one) shall in term time audit and allow on due proof, all accounts and demands legally chargeable upon their respective counties: and every account, or such part, and so much thereof as is so allowed, shall be recorded by the clerk in a book to be kept for that purpose: and the claimant shall receive a warrant on the county treasurer, signed by the clerk for the amount so allowed; and the clerk shall number the warrants issued as aforesaid, in each year; beginning in the term first held in each year, and progressing through the same in numerical order; and register the number and amount of each warrant in the aforesaid book; and transmit to the auditor of accounts, annually, the numbers, amounts and names of claimants of all such warrants, and an abstract of the items or services for which the said warrants were issued; and the result of the said account shall be entered in the auditor's books; and the account thereof laid before the Legislature, annually, with his other accounts.

AUDITOR'S SALARY.

Sec. 7. *And be it further enacted*, That the auditor of public accounts shall receive, in full compensation for his services, the annual salary of fiv hundred dollars; to be paid out of the territoria treasury, without warrant: and the said auditor shall open his office and enter on the duties of the same on the first day of April next.

SEAL OF OFFICE.

Sec. 8. *And be it further enacted,* That the said auditor shall procure a seal of office; the legend of which shall be, "Mississippi Territory, Auditor's Office." Also all books and stationary necessary for the use of his office, and the accounts for the said seal, books and stationary, shall be audited and paid to the said auditor, by the territorial treasurer, without warrant: and the said seal and books shall appertain to the said office, and be delivered over by the said auditor, his executors or administrators, to his successor.

CHAP. III.

An Act *more particularly to define the duties of the Auditor of Public Accounts and Territorial Treasurer, and for other purposes.*

Under what restrictions auditor to issue his warrant.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That no warrant shall ever hereafter be issued by the auditor of public accounts, until after provision has been made by law for the allowance or pay of such demand.

To draw special warrants.

Sec. 2. *And be it further enacted,* That it shall be the duty of the auditor of public accounts, to draw special warrants on the territorial treasurer, when he shall be thereto required, for all monies of whatever amount, which by law are directed to be paid out of the territorial treasury, but by special warrant; which warrant shall express on what particular account such money is due by the territory. And it shall be the duty of the territorial treasurer to examine whether such warrant has been issued agreeably to law, before he shall pay the same, and after making due examination, if he shall find such warrant has been issued agreeably to law, he shall pay such warrant to the person legally entitled to receive the same, taking his or her receipt thereon; and shall also make a proper entry in his books, of each and every such warrant, and shall keep the same regularly filed in his office; and it shall be the duty of the auditor to take a receipt for every warrant so issued by him, and to keep the same regularly filed in his office.

Treasurer's duty.

Sec. 3. *And be it further enacted*, That all laws, or parts of laws, which come within the purview and meaning of this act, be and the same are hereby repealed.

Repealing clause.

JOHN ELLIS, *Speaker of the House of Representatives.*

JOSHUA BAKER, *President of the Legislative Council.*

Approved—*February* 6, 1807.

ROBERT WILLIAMS, *Governor of the Mississippi Territory.*

CHAP. IV.

AN ACT *to raise Supplies and make Appropriations for the Year* 1807.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That a tax for the sums, and in the manner hereinafter mentioned, shall be raised and paid into the public treasury, for the use and service thereof.

Tax on lands.

Sec. 2. *And be it further enacted*, That the sum of twenty-five cents for every hundred dollars value be paid, in specie, on all lands lying within this territory, claimed or held by virtue of a British or Spanish patent, or order of survey, the right whereof has been confirmed by either Board of Commissioners of the United States, appointed for settling claims to land south of the state of Tennessee, and also on all donation claims, the right whereof has been confirmed by either of the aforesaid Board of Commissioners; and on one-fourth part of all preemption claims, whose right of preference has been confirmed as aforesaid, and where the claimant has paid the first instalment due thereon; under the several regulations hereinafter expressed:—Class No. 1, shall contain all lands lying within five miles of the limits of the city of Natchez, the first quality of which shall be rated at twelve dollars per acre; the second quality at eight dollars per acre; the third quality at five dollars per acre:—Class No. 2, shall contain all lands lying within ten miles of the Mississippi river, and not included in Class No. 1; the first quality of which shall be rated at eight dollars per acre; the second quality at five dollars per acre; the third quality at three dollars per acre; and the fourth quality shall contain all low grounds and broken or hilly lands incapable of immediate cultivation, which shall be rated at one dollar per acre:—Class No. 3, shall contain all lands lying within twenty miles, and above ten miles from the Mississippi river; the first quality of which shall be rated at six dollars per acre; the second quality at four dollars per acre; the third quality at two dollars per acre; and the fourth quality at seventy-five cents per acre:—Class No. 4, shall contain all lands lying above twenty miles from the Mississippi river, and west of Pearl river; the first quality of which shall be rated at four dollars per acre; the second

Claſſes of do.

quality at two dollars per acre; and the third quality at seventy-five cents per acre:—Class No. 5, shall contain all lands east of Pearl river, and lying below the flowing tide; the first quality of which shall be rated at five dollars per acre; the second quality at three dollars per acre; the third quality at two dollars per acre; and the fourth quality, in which shall be included all low grounds, incapable of immediate cultivation, and all pine lands of the lowest quality, which shall be rated at fifty cents per acre:—Class No. 6, shall contain all lands lying east of Pearl river, and not included in Class No. 5, the first quality of which shall be rated at three dollars per acre: the second quality at one dollar per acre; and the third quality at fifty cents per acre.

Poll tax.

Sec. 3. *And be it further enacted*, That the sum of one dollar shall be levied on all free white males above the age of twenty-one years and under the age of fifty years; the sum of one dollar on all free negroes, mulattoes and mistigoes, between the age of eighteen and fifty years; the sum of seventy-five cents on all slaves, and twenty-five cents on every hundred dollars value of all lands, lots and buildings within any city, village or borough; and fifty cents per centum on all stock in trade; the sum of ten dollars on all professors of law and physic; and the sum of one and a half per centum on all sales at auction, to be ascertained and rated by the assessors and collectors throughout this territory. But nothing in this act contained shall be construed to impose any tax upon the property or estates of any religious society, or of the lands or funds of any society applicable to the education of youth or the maintainance of public schools.

Exception.

In what payable.

Sec. 4. *And be it further enacted*, That the tax collectors throughout this territory, shall receive no payment of taxes but in gold and silver coin, made current by the laws of the United States, or certain certificates for the pay of the Members of the Legislature, and their clerks and officers, for their attendance on the Legislature.

Tax collectors to be furnished, &c.

Sec. 5. *And be it further enacted*, That the auditor of public accounts is hereby required to furnish to each of the tax collectors, a copy of this act, together with a copy of an act entitled "An act directing the appointment of tax collectors within this territory, declaring their duties in office, and for other purposes therein mentioned," within four months after the passing of this act; and the reasonable expences occasioned thereby, shall be paid out of the public treasury.

Their duty, where found.

Sec. 6. *And be it further enacted*, That the enquirers, assessors and collectors throughout this territory, shall do and perform all and singular the duties of their offices, according to the provisions of the act entitled "An act directing the appointment of tax collectors in this territory, declaring their duties in office, and for other purposes therein mentioned;" and that on closing their accounts with the auditor of public accounts, and paying the monies by them collected into the treasury, they shall receive seven and a half per centum, on the amount collected.

Their compensation.

Appropriation for charitable purposes.

Sec. 7. *And be it further enacted*, That out of the monies thus levied and collected in each and every county within this territory, after deducting the expence of collection, there be reserved and set apart one tenth part thereof, to remain in the treasury as a fund, subject to the order of the justices of the quorum of each county as aforesaid, who are hereby authorised to dispose of the same for charitable purposes, to the poor of their county, in such manner as they, or a majority of them, may deem proper; and the auditor of public accounts is hereby required to issue his warrant on the territorial treasurer, for all such sum or sums as a majority of the justices of the quorum, in any county as aforesaid, may draw on him for, provided such sum does not exceed one-tenth part of the monies levied and collected in such county.

Under whose direction.

Sec. 8. *And be it further enacted*, That it shall be the duty of the justices of the quorum, in each and every county within this territory, to meet at their respective court-houses, on the second Monday in November, in every year, for the purpose of taking into consideration the condition of the poor of their county, and grant such relief as their necessity may require, agreeably to the provisions of the preceding section of this act.

Special tax on Claiborne county.

Sec. 9. *And be it further enacted*, That for the purpose of defraying the expence incurred by erecting the public buildings in the county of Claiborne, there be levied a tax on the inhabitants of said county, for the sums, and in the manner following:—On all free males, above the age of twenty-one years, the sum of twenty-five cents; on all slaves, the sum of twenty-five cents; on every hundred dollars value of all lands, ten cents; and on every hundred dollars value of all lands, houses and lots, in any town or village, ten cents; to be levied and collected by the tax collector to be appointed for the county of Claiborne aforesaid, at the same time and in the same manner that other taxes are to be levied and collected by the provisions of this act; and it shall be the duty of the tax collector to pay all monies by him collected for the purpose of defraying the expence of erecting the aforesaid public buildings, into the hands of the commissioners appointed by law to contract for the building of a court-house and jail in said county, taking their receipt for the same; and the collector shall be allowed the same commissions for collecting this tax, as he is allowed by this act for collecting other taxes.

Officers' salaries, &c.

Sec. 10. *And be it further enacted*, That the following sums be respectively appropriated for the salaries of public officers, and other expences of government:—For the salary of the attornies-general, nine hundred and fifty dollars; for the salary of the auditor of public accounts, six hundred dollars; stationary and office rent for the treasury department, one hundred and fifty dollars; expences of the members of the Legislature, at their present session, three thousand five hundred dollars; clerk of the House of Representatives and secretary of the Council, eight hundred dollars; messenger and door-keepers, four hundred and fifty dollars; for paying the territorial treasurer the balance due him on settlement made with the Legislature, on the 18th day of December, 1806, eight hundred and seven dollars and eighty-one cents.

Territorial warrants, how paid.

Sec. 11. *And be it further enacted*, That all warrants issued by the auditor of public accounts, and payable by the territorial treasurer, shall be paid according to the priority of dates and numbers, and not otherwise, except appropriations made during the present session of the Legislature.

JOHN ELLIS, *Speaker of the House of Representatives.*

JOSHUA BAKER, *President of the Legislative Council.*

Approved—*February* 10, 1807.

ROBERT WILLIAMS, *Governor of the Mississippi Territory.*

CHAP. V.

AN ACT *directing the appointment of Tax Collectors in this Territory, declaring their duties in office, and for other purposes therein mentioned.*

Tax collectors to be appointed.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That for the purpose of collecting the general tax of this territory, there shall be appointed by the Governor thereof, one tax collector in each and every county within the same, who shall also discharge the duty and office of enquirer and assessor within their respective counties.

Their oath,

Sec. 2. *And be it further enacted*, That every person who shall be appointed tax collector by virtue of this act, shall, before he enters upon the duties of his office, take and subscribe the following oath:—"I, A. B. do solemnly swear (or affirm) that I will exercise the office of tax collector for the county of   and that I will, to the best of my knowledge and abilities, ascertain the several qualities of the land lying within the county of   where I am appointed collector, and where no return shall have been made of the qualities of the same; and that I will not, for any fee or reward, assign any other quality to such lands than in truth and good conscience they appear to me to deserve; and that I will impartially assess all other property and possessions by law directed to be assessed, to the best of my judgment, according to the true intent and meaning thereof. So help me God." And if any collector shall execute the office without first taking the said oath, in like manner herein directed, he shall forfeit and pay the sum of five hundred dollars.

And bond.

Sec. 3. *And be it further enacted*, That the said collector shall give bond before the justices of their respective county courts, for the following sums; the collector for the county of Adams, fourteen thousand dollars; and the collectors for each and every other county, five thousand dollars; with two or more securities, to be approved of by the said justices, for the faithful discharge of their duties while in office; which bond shall be lodged in the auditor's office of this territory.

Sec. 4. *And be it further enacted*, That the collectors shall be accountable for all monies by them received for taxes, respectively; and shall be liable to be prosecuted by the attorney-general, in behalf of the territory, for all losses and damages that may be sustained by any omission or breach of their duty.

Collectors, where to attend.

Sec. 5. *And be it further enacted*, That the collectors in their respective counties, shall attend in each militia captain's district, at or near the usual muster ground, to receive returns and payments of taxes; of which time and place, they shall give at least ten days' notice by advertisement, to be posted up at three or more places within the district; and all persons living within this territory, shall return a particular account in writing, to the collector, at such times and places as the said collector, or any of them, may appoint for the doing thereof; so that the same be done on or before the first Monday in January, in each and every year; which shall contain an enumeration of all his lands, with a particular account of the situation, quantity and quality of the same, and to which class they belong, as also each town lot of land, with the dimensions of and improvements thereon; and also the number of slaves, with the amount of the stock in trade belonging to the person making the return; and all other property or possessions which by law are liable to taxes; which shall be attested in the following words;—" I, A. B. do solemnly swear (or

Persons to make returns,

When,

And in what manner.

affirm) that the account which I now give in, is a just and true account of the quantity and quality of all the lands, slaves and stock in trade, as are directed to be taxed by law, which I am possessed of or interested in, either in my own or in the right of any other person or persons whatever, according to the best of my knowledge and belief; and that I will give just and true answers to all questions that may be asked me, touching the same or any other property or possessions directed to be taxed by law. So help me God." Which oath the enquirers are hereby authorised to administer; and the returns shall be made to the collector for the county where the person making the return lives the greatest part of the year: and shall, on or before the first day of March then next ensuing, pay their taxes to the collectors as aforesaid; and the said collectors shall annually pay all monies by them received for taxes, to the treasurer, on or before the first Monday in May.

Penalty for making false return.

Sec. 6. *And be it further enacted*, That if any person, in giving in his or her account of taxable property, shall wilfully conceal any part thereof, each and every such person shall forfeit and pay three times the value of the tax of what they have so concealed.

Defaulters, how dealt with.

Sec. 7. *And be it further enacted*, That if any person shall neglect or refuse to give in his or her return of taxable property to the collectors, at such time and place as they shall appoint, on or before the first Monday in January, in every year, he or she shall be deemed a defaulter, and shall be doubly taxed, according to the best information the collector can get of his or her taxable property, and in case any person shall neglect or refuse to pay in his or her taxes, at the times and place appointed for the payment thereof, the collectors respectively, shall immediately post up for ten days, a list of at their respective court-houses; and if the taxes are not paid in these ten days, they shall, without further delay, levy the same, by virtue of a warrant by them respectively to be signed for that purpose, which warrant shall be directed to the sheriff of their respective counties, whose duty it shall be to receive and execute the same, requiring him to levy the same by distress of the defaulter's estate, real or personal, for specie; and return the overplus, if any there be, to the defaulter, after deducting the reasonable charges; and if no such distress can be found, whereon the monies so assessed can be levied, then the sheriff, by virtue of the said warrant, shall take the body of such defaulter, and convey him to the common jail of his county; which warrant shall run in these words:—"By A. B. collector of the general tax for the county of   to C. D. sheriff of said county: whereas E. F. hath been duly assessed by me, the subscriber, in the sum of   dollars and   cents; which the said E. F. hath neglected to pay: these are therefore, in the name of the Mississippi territory, strictly to charge and command you, to levy by distress and sale of the lands, goods and chattels of the said E. F. the sum of   dollars and   cents, together with the costs and charges thereof; and in case the said E. F. shall refuse to point out lands, or produce goods and chattels sufficient to levy the distress and the charges thereon, that then you take the body of the said E. F. and convey him to the common jail of your county, commanding you, the said keeper of the said jail, to receive the body of the said E. F. in your custody, until he shall pay the sum of   dollars and   cents, together with the charges of keeping and detaining as aforesaid; and for so doing this shall be your sufficient warrant. Given under my hand, this   day of   " &c. And the officer keeping the jail, shall detain such person in the jail, without bail or mainprize, until the debt and charges be paid, or discharged by due course of law; and the collectors, for every such warrant they shall issue, shall have from such defaulter fifty cents, and the sheriff shall be entitled, on the service of such warrant, the usual fees for the levying of executions.

Sec. 8. *And be it further enacted*, That the tax collector shall take the sheriff's receipt for all such executions as shall have issued for taxes; which they shall respectively produce in settlement with the auditor of public accounts, to the end that the auditor may be enabled to inspect the conduct of the sheriffs therein.

In case of removal, collector to levy.

Sec. 9. *And be it further enacted*, That the taxes imposed by any tax act, shall be preferred to all securities and incumbrances whatever: and if any person, between the time of rendering the account of his estate to the enquirer, and the time of paying his taxes, shall be about to depart from the county, the collector shall forthwith levy the same, notwithstanding the day of payment is not already come.

Enquirer to value, in a certain caſe.

Sec. 10. *And be it further enacted*, That where enquirers receive returns of lands, the quality of which is not known to the person making the return, the enquirer shall value the lands so returned agreeably to law, according to the best information he can get of the quality and situation of the lands so returned; and every person who shall believe he is overrated, or whose attorney shall believe he is overrated by such assessor, shall, at the time of paying his taxes, be allowed to swear off so much as he or his attorney shall believe they are overrated; and the collector, or any of them, are hereby authorised to administer such oath.

Sec. 11. *And be it further enacted*, That every person shall be liable to pay taxes for all the properperty, real or personal, of which he shall stand seized, or having the custody, either as attorney, agent, guardian, executor or administrator, or in his own right as tenant in fee simple, or by courtesy, or for life, or in the right of his wife; on the first day of January in every year; and all taxes, on real or personal property, which shall be sold or conveyed after the first day of January in every year; shall be returned and paid by the seller thereof.

Property liable, &c.

Sec. 12. *And be it further enacted*, That if any taxable property shall be found by the enquirer to belong to any person residing out of the limits of this territory, and which shall not have been returned to any of the enquirers, then the enquirer shall charge the said taxable property for the payment of all taxes due by virtue of any future tax act, rateably and proportionably, according to the quantity and quality of the lands, and other taxable property, as if the same were in the actual possession of some person residing within the territory; and the tax collector, after giving nine months' notice in one of the gazettes published within this territory, shall proceed to sell and convey the same, in fee simple, in portions or lots not exceeding three hundred and twenty acres, or so much thereof as will be sufficient to pay the taxes, and arrears of taxes, due thereon, together with the costs and charges incurred thereby.

Non residents lands, how disposed of.

Sec. 13. *And be it further enacted*, That the enquirers shall begin their enquiry on the first Monday in October, in each and every year.

Sec. 14. *And be it further enacted*, That when the tax collector in any county, shall die, and the tax returns are not closed with the auditor, the tax collector, who shall be thereafter appointed, is hereby directed to demand receipts, or administer on oath, or procure other satisfactory proof, from the

In caſe of death, &c.

inhabitants of the county, to ascertain what taxes might still be due the public by the deceased tax collector; and the auditor is hereby ordered to proceed against the estate of the deceased tax collector and his securities, according to law: *Provided nevertheless*, That a satisfactory settlement made by the executor or administrator of the deceased, with the auditor, shall be sufficient for the acquittal of all concerned.

Proviso.

Property, how sold,

Sec. 15. *And be it further enacted*, That whenever any collector shall levy on any property of any defaulter, for taxes, he shall not put up more for sale in one lot, than he believes will be sufficient to pay the sum due by such defaulter, together with the charge of legal process; and if the sale be made of negro slaves, he shall not sell them for a longer term than one year.

And where.

Sec. 16. *And be it further enacted*, That all sales by collectors, shall be made at the places where the taxes ought to have been paid, except sales of real estate, which in all cases, shall be at their respective court-houses, of which sale ten days' public notice shall be given, by posting up advertisements on three or more public places within the county, and one of which shall be where the sale is to take place.

Remedy in case of collector's default.

Sec. 17. *And be it further enacted*, That if any collector of the present, or any future taxes, shall neglect or refuse to give in upon oath, to the auditor, a just and true account of all monies received by him, or due to the territory, on account of the present or any future tax act, by the time herein limited, the auditor shall, by warrant under his hand, commit such collector to the common jail of his county, there to remain without bail or mainprize, until he shall render upon oath a full and satisfactory account of, and shall pay all monies by him received, on account of the territory, to the treasurer, together with the reasonable charge of such commitments.

Auditor's duty.

Sec. 18. *And be it further enacted*, That the auditor of public accounts is hereby empowered to issue executions against all collectors and sheriffs, and all other persons in arrears for taxes, and against all collectors of the present or future tax, if the same shall not be paid on or before the time is elapsed for paying the same; and he is hereby required to prosecute every person, neglecting or refusing to perform the several matters required by this act, for the recovery of the penalties inflicted by the same.

Forfeiture in caſe of neglect, &c.

Sec. 19. *And be it further enacted*, That every officer who shall neglect or refuse to perform the several matters hereby required of him to be done within the time prescribed by any future tax act, and by which such officer shall be concerned or made liable to any duties; shall, for every such neglect or refusal, forfeit five hundred dollars.

Further duty of collectors.

Sec. 20. *And be it further enacted*, That the collectors respectively, shall give an account upon oath in writing to the auditor, of their own lands, slaves, and other taxable property, and pay the taxes thereon, according to the rates appointed by the tax act for such year respectively; and at the closing of their accounts, they shall exhibit two lists, one containing all the taxable property returned to them, annexed to the names of the persons who returned the same, with the sums paid by them respectively; and secondly, all the taxable property in the county, which has come to their knowledge, and has not been returned; which lists shall be given to the auditor, and their accounts closed on oath in the following words:—"I, A. B. do swear (or affirm) that the accounts which I now give in, and the lists I now return, are just and true, according to the best of my knowledge; and that I have used all legal means in my power, to obtain payment of the taxes imposed by law, in the county where I have been appointed enquirer, assessor, or collector. So help me God." Which oath, the auditor is hereby authorised to administer.

Duty of the treaſurer.

Sec. 21. *And be it further enacted*, That the treasurer shall open an account in his books, in the name of the Mississippi territory, in which account, he shall enter the amount of all sums now in the treasury, and in like manner, shall enter all sums that shall be thereafter received by him; and also raise an account in the books of the treasury, in every instance, for the several appropriations of money made by the Legislature, so that the appropriations of money and the application thereof conformably thereto, may appear clearly and distinctly, on the treasury books; and the treasurer is hereby required to render, annually, to the Legislature, a full account of his transactions.

Sec. 22. *And be it further enacted*, That it shall be the duty of the treasurer to pay the salary of all public officers on the civil list, quarterly, and not earlier.

Penalties, how recovered & applied.

Sec. 23. *And be it further enacted*, That all penalties may be sued for under this act, by any person, which, upon recovery thereof, shall go one half to the person informing or suing for the same, and the other half to the territory.

Officers' relief in caſe of ſuit.

Sec. 24. *And be it further enacted*, That if any enquirer, assessor, collector, auditor, treasurer, sheriff, or other person, shall be sued for any matter or thing, done by them, in the execution of this act, they may plead the general issue, and give this act and the special matter in evidence; and in case judgment shall be given for the defendant, or the plaintiff shall suffer a nonsuit, or discontinue his action, the defendant shall recover treble costs of suit.

JOHN ELLIS, *Speaker of the House of Representatives.*
JOSHUA BAKER, *President of the Legislative Council.*

Approved—*February* 1807.

ROBERT WILLIAMS, *Governor of the Mississippi Territory.*

CHAP. VI.

An Act *to extend the time for the Payment of Taxes for the Year* 1806, *and for other purposes.*

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That the sheriffs of the several counties within this territory, shall have the further time of one month from the time the taxes that are by law to be collected and paid into the treasury, for the year 1806, to collect and pay the same according to law.

Sec. 2. *And be it further enacted,* That the taxes assessed on billiard tables, for the year 1806, be and the same are hereby remitted; and the sheriffs of the several counties within this territory, are hereby directed and required to refund all such sums of money, or other thing, which they may have received in payment of said taxes, to the person or persons from whom they received the same.

JOHN ELLIS, *Speaker of the House of Representatives.*
JOSHUA BAKER, *President of the Legislative Council.*

Approved—*February* 4, 1807.

ROBERT WILLIAMS, *Governor of the Mississippi Territory.*

CHAP. VII.

RESOLUTION *directing the manner in which accounts against the territory shall hereafter be presented.*

RESOLVED, That in future all accounts exhibited against this territory, shall have every charge therein clearly defined, and shall be presented on or before the first day of November next; and also on or before the first day of November, in every succeeding year, to the auditor of public accounts, at his office; whose duty it shall be to audit the same, make his remarks on each, and lay them before the Legislature, within the first three days of their next ensuing session.

Resolved, That in future all accounts exhibited against this territory, shall be certified by such officers only as are known in law, and who directed the respective duties and services to be performed for the public; and each account shall also be attested; which attestation shall be subscribed by the parties making the demand, and shall be as follows: "Personally appeared (the party's name) who, after being duly sworn upon the Holy Evangelist of Almighty God, saith, that the above (or within) account of dollars and cents, is justly due to him from the Mississippi territory, and that he has never received any part thereof, either by discount or otherwise, directly or indirectly. Witness my hand. A. B.

Sworn before me, this day of J. P.

Resolved, That in future all accounts against this territory, that are not delivered in, and authenticated in the manner prescribed by the above resolutions, shall not be provided for in the tax bill of that year.

JOHN ELLIS, *Speaker of the House of Representatives.*

JOSHUA BAKER, *President of the Legislative Council.*

Approved—*February* 10, 1807.

ROBERT WILLIAMS, *Governor of the Mississippi Territory.*

PART IV.

LAWS RELATING TO THE PUBLIC FORCE.

MILITIA LAW.

CHAP. I.

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An Act *to organize the Militia.*

ENROLMENT.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, and it is hereby enacted by the authority of the same;* That every free white male citizen residing in this territory, and being of the age of sixteen years, and under the age of fifty years (except as is hereinafter excepted) shall severally and respectively be enrolled in the militia, by the captain or commanding officer of the company, within whose bounds such citizen may reside. And it shall at all times hereafter be the duty of such commanding officer of a company to enrol every such citizen as aforesaid; and also those who shall from time to time arrive at the age of sixteen years, (except as before excepted) or shall come to reside within his bounds, and shall without delay notify such citizen of the said enrolment by a proper non-commissioned officer of the company, by whom such notice may be proved. The officers, judicial and executive, the territorial treasurer, all ministers of the gospel, licensed to preach according to the rules of their sect, and keepers of the public jails, and of public ferries, shall be, and they are hereby exempted from the duties required by this act.

ARMS.

Sec. 2. *And be it further enacted*, That every citizen so enrolled and notified, shall, within six months thereafter, or as soon as such can be had in the territory, provide himself with a good musquet or fire-lock, a sufficient bayonet and belt, two spare flints and a knapsack, a pouch, with a box to contain therein not less than twenty-four cartridges, suited to the bore of his musquet or firelock, to contain a proper quantity of powder and ball; or with a good rifle, knapsack, shot-pouch and powder-horn, twenty balls suited to the bore of his rifle, and a quarter of a pound of powder; and shall appear so armed, accoutred and provided, when called out, to exercise, or into service, except when called out on company days to exercise only, when he may appear without a knapsack. The commissioned officers severally, shall be armed with a sword or hanger. And as soon as such can be provided in the territory, all musquets for arming the militia, as is herein required, shall be of bores sufficient for balls of the eighteenth part of a pound, agreeably to a law of the United States, passed May the eighth, seventeen hundred and ninety-two: and every citizen so enrolled, and providing himself with the arms, ammunition and accoutrements, required aforesaid, shall hold the same, exempted from suits, distresses, executions, or sales, for debt, or for the payment of taxes.

ARRANGEMENT.

Sec. 3. *And be it further enacted*, That the militia of this terrritory shall be arranged in the manner following: to wit—There shall be one regiment of two battalions in each county, to consist of so many companies of forty-five rank and file as can be formed therein; and the whole militia of the territory shall form one brigade, and be officered as follows: one brigadier general, with one brigade inspector, to serve also as brigade major; to each regiment, one lieutenant-colonel commandant; and to each battalion, one major; to each company, one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer, one fifer, or one buglar: the non-commissioned officers to be appointed by the captain, or commanding officer of the company. That there shall be a regimental staff, to consist of one adjutant and one quarter master, to rank as lieutenants; one paymaster; one surgeon; and one surgeon's mate; one sergeant major; and one drum major; and one fife major; to be appointed by the commanding officer of the regiment.

BRIGADE INSPECTOR.

Sec. 4. *And be it further enacted*, That the brigade inspector shall be subject to do and perform the duties of his office, agreeably to law, and under the direction of the commander of the brigade; for which service he shall be allowed the sum of five hundred dollars per annum; to be paid by the treasurer, out of any monies in the treasury, not otherwise appropriated, on a warrant from the auditor, upon a certificate from the Governor.

ADJUTANTS.

Sec. 5. *And be it further enacted*, That the adjutants of the several regiments shall have the rank of captain, and shall receive the sum of three dollars per day, for each day they may be employed in making out returns, and in communicating and executing regimental orders. And it shall be the further duty of the adjutant of the regiment of militia, for the county of Washington, to train the officers and perform the other duties of the brigade inspector: for which additional service he shall be allowed the sum of four dollars a day, for every day he shall be necessarily and actually employed in discharging the duties of a brigade inspector, in addition to his compensation as adjutant. The service of the adjutants shall be certified by the commanding officers of their respective regiments; and on such certificate being produced to the Governor, he shall authorise a warrant for the amount, to issue upon the territorial treasurer, to be paid out of any monies in the treasury, not otherwise appropriated.

DISTINCTION AND BOUNDARIES.

Sec. 6. *And be it further enacted*, That it shall be the duty of the Executive to number by ballot the several regiments, and cause the same to be registered in the office of the brigade major: and every commission hereafter issued by the Governor, shall express the regiment to which the person to whom the same is directed, shall belong.

Sec. 7. *And be it further enacted*, That the commanding officers of regiments and battalions shall meet at their respective court-houses, on the same day in the month of May, annually; to be appointed by the commanding officers of the regiments, then and there to make new divisions, if necessary, of their respective counties, into districts, for the purpose of forming the battalions and companies, by this act established: which districts so laid off, shall be designated by certain lines and bounds, to be established by them, and recorded by the clerks of the courts-martial respectively.

Sec. 8. *And be it further enacted*, That it shall be the duty of the commanding officer of every company to divide his company into divisions by ballot, from one to four, for the purpose of a regular routine of duty, when called into actual service, and to return a roster of each division, and its number in rotation, within twenty days thereafter, to the commanding officer of the regiment, who shall order the same to be recorded by the clerk of the court-martial. The same regulations shall be observed on the future enrolment of any person, unless such person shall produce a certificate of his having been before draughted for the above purpose; in which case he shall be enrolled according to such certificate.

VOLUNTEER CORPS.

Sec. 9. *And be it further enacted*, That there shall be formed in the town of Natchez and its vicinity, by voluntary enlistment, one company of artillery; consisting of one captain; two lieutenants; four sergeants; four corporals; one drummer; one fifer; and forty privates: and one troop of horse shall be formed in each county, consisting of one captain; two lieutenants; one cornet; four sergeants; four corporals; one trumpeter; and forty privates; in like manner by voluntary enlistment: and they shall be furnished, armed and equipped as follows: each shall have a good horse, at least fourteen hands high, with a good saddle, bridle, valice, holsters, one pistol, and a proper horseman's sword; a cartouch box, with cartridges; a pair of boots and spurs; and shall be clothed in such uniform as the commander in chief shall direct: and at all musters, the officers and privates of artillery shall be armed and accoutred with small arms, in the same manner as the infantry, except non-commissioned officers, who shall have swords instead of fire-arms.

Sec. 10. *And be it further enacted*, That when the Governor shall find it expedient, the several troops of horse so formed, shall compose one regiment; to which shall be appointed one colonel and two majors; and also an adjutant, who shall take rank as a captain: which regiment, except the company in the county of Washington, shall meet once in every year, in the month of December, at the place where the Legislature may hold their sessions, on such day as the brigadier-general or commanding officer of the brigade, may appoint, for the purpose of holding a general muster.

COMMANDER IN CHIEF AUTHORISED TO ORGANIZE INFANTRY COMPANIES.

Sec. 11. *And be it further enacted*, That the commander in chief be, and he is hereby authorised, whenever he may deem it expedient, to organize in each battalion of the several regiments, one or more volunteer companies; under the title of light infantry or rifle men, as shall be most convenient: each company aforesaid, to consist of a captain; lieutenant; ensign; four sergeants; four corporals; two musicians; and fifty privates; and such volunteer companies shall perform the same routine of duty, and be subject to the same rules and regulations, and the same orders from the commanding officers of the battalion, and regiments, to which they shall be annexed, as the other companies of militia within the same. And every officer appointed by virtue of this section, who shall fail to enlist his quota of men within four months after receiving his commission, shall be liable to be discontinued; and the quota of every officer is declared to be as follows: to wit—The captains' quota is twenty-two privates; two sergeants; and two corporals; the lieutenants' quota, sixteen privates; one sergeant, and one corporal; and the ensigns' quota, twelve privates, one sergeant, and one corporal.

OATH OF OFFICE.

Sec. 12. *And be it further enacted*, That every commissioned officer of the militia shall, previously to his entering on the execution of his office, take an oath to support the constitution of the United States, and also the oath of office, viz:—"I, A. B. do solemnly swear, that I will faithfully and justly execute the office of a according to the best of my skill and judgment. So help me God."

MUSTERS.

Sec. 13. *And be it further enacted*, That there shall be a private muster of every company of militia, formed by virtue of this act, once in every three months, in every year, to be appointed by the commanding officer thereof, at, or as near as may be, to the centre of his company district; there shall be a muster of each battalion in the month of February, in every year, to be appointed by the commanding officers of the regiments to which such battalion respectively belongs; at, or as near as may be, to the centre of the battalion; and a muster of each regiment in the month of October, in every year, to be appointed by the brigadier-general or commanding officer of the brigade; at, or as near as may be, to the centre of the county; which said company, battalion and regimental musters, shall continue one day each, and no longer.

Sec. 14. *And be it further enacted*, That the brigadier-general or commanding officer of the brigade, shall cause notice to be given of the times and places of the said musters, to the commanding officers of regiments. The commanding officers of regiments shall give notice of the regimental and battalion musters, to the commanding officers of battalions. The commanding officers of battalions shall give notice of the regimental and battalion musters, to the captains or commanding officers of companies; and the captains or commanding officers of companies, shall give notice of the regimental, battalion, and private musters, to every person of their respective companies: and to that end, the commanding officers of companies may order so many of their sergeants as they shall think fit, to give such notice, which may be done by personal summons, or in writing, left at the usual place of abode of the person so to be notified. The notice to be given by the commanding officers of the brigade regiments, and battalions, shall be in writing, delivered in person, or left at the usual place of abode of the person to be notified, either by such commanding officers themselves, or by such officer or officers of their respective commands, as they may think fit to order: the said notice shall be given by the commanding officers of the brigade, to the commanding officers of the regiments, at least thirty days: by the commanding officers of regiments, to the commanding officers of battalions, at least fifteen days: by the commanding officers of battalions, to the commanding officers of companies, at least ten days: and by the commanding officers of companies, to each person in their company, at least five days; before such regimental, battalion or company musters (as the case may be) shall be appointed to be had. Any officer ordered as aforesaid, to give such notice, and failing therein (without a reasonable excuse) shall forfeit and pay for every such offence, ten dollars; and every sergeant, so failing, shall forfeit and pay the sum of two dollars for every such failure; to be recovered as other fines, hereinafter to be established.

Sec. 15. *And be it further enacted*, That every officer and private shall appear at his respective muster field, on the day appointed, by eleven o'clock in the forenoon. At every muster, each captain or commanding officer of a company, shall call his roll, or cause the same to be done in his presence; examine every person belonging thereto, and note down all delinquencies occurring therein, and make return thereof, at the next regimental or battalion muster, to the commanding officer of his battalion, including those which may occur on that day. And every commanding officer of a battalion shall, at his regimental muster, or battalion muster, (as the case may be) in like manner, call his roll, or cause the same to be done in his presence; examine and note down all delinquencies in his battalion, and make return thereof, together with those reported from commanding officers of companies to the commanding officer of the regiment to which he belongs, on the day next succeeding such regimental or battalion musters (as the case may be) who shall lay the whole (or so much thereof as the court may have cognizance of) before the court hereinafter appointed, to take cognizance of, and determine on such delinquencies: *Provided*, That the commanding officer of a battalion shall not be obliged to extend his roll call, or individual examination, beyond the officers, unless he shall observe some apparent necessity for so doing. And to each of the said returns, shall be annexed the following certificate: to wit:—"I certify that the return hereunto annexed, contains all the delinquencies which have occurred in my company, or battalion (as the case may be) since my last return: having examined the same as the law directs." And to the battalion returns shall be added; "and that the reports which accompany them are all which have been made by the commanding officers of the companies."

RETURNS.

Sec. 16. *And be it further enacted*, That every captain or commanding officer of a company shall, within ten days after every regimental or battalion muster, make up and report to the commanding officer of his battalion, a return of his company, in such manner and form as shall be furnished by the proper officer, from time to time. It shall be the duty of the commanding officers of battalions, to make like returns to the commanding officer of the regiment, in ten days after such regimental or battalion muster; who shall cause the adjutant of his regiment to make like returns thereof, to the brigade inspector, within thirty days thereafter.

VACANCIES.

Sec. 17. *And be it further enacted*, That in all cases of death, absence or resignation, of any lieutenant-colonel, commandant, major or captain, the next officer in rank, in his respective command, shall be considered as the commanding officer during such vacancy, and liable to perform the duties required by this act; and for his neglect therein, shall incur the penalties annexed thereto.

EXERCISE.

Sec. 18. *And be it further enacted*, That it shall be the duty of every commander of a regiment, battalion, or company, at every one of their respective musters, to cause the militia to be exercised and trained agreeably to the mode of discipline prescribed by Congress, under pain of being arrested and tried for a breach of his duty; and for this purpose, the said officers are hereby authorised to order the most expert and fit officer in their respective commands, to perform that duty.

PRIVILEGES.

Sec. 19. *And be it further enacted*, That no officer or soldier, ordered or directed by this act to appear at any muster as aforesaid, shall be liable to be taken or arrested by any officer, in any civil action or process whatever, on the day such person is directed to appear, or in a reasonable time, either going to, continuing at, or returning home from the place appointed to muster; but every such arrest is hereby declared to be void: and every person required by this act to attend musters, going to, or returning from any muster, shall be suffered to pass over any bridge, and shall be put over any ferry, without delay, free from any charge whatever: and if any ferry-man shall demand pay for, or delay, or refuse to put such person or persons over, he shall forfeit and pay, for every such offence, the sum of one dollar; to be recovered by a warrant from a justice of the peace: one half to the informer, and the other half to the use of the county wherein the offence was committed.

OFFICERS TO BE TRAINED.

Sec. 20. *And be it further enacted*, That the commissioned officers of the several regiments, shall meet once in every year, within their respective counties, for the purpose of being trained and instructed by the brigade inspectors; the days and places of meeting to be fixed on by the commanding officer of the brigade. The officers thus assembled, shall continue two days, and no longer, every time they shall be called. Every officer failing to attend such meeting, or being summoned, not having a reasonable excuse, to be adjudged of by a court-martial, shall forfeit and pay five dollars: to be appropriated as are the other fines by this act required.

PUNISHMENT FOR MISCONDUCT.

Sec. 21. *And be it further enacted*, That any officer who shall be guilty of disobedience, or other misbehavior, when on duty, or shall at any time be guilty of any conduct unbecoming the character of an officer, shall be put under arrest by his commanding officer, and tried, as shall herein be directed.

Sec. 22. *And be it further enacted*, That if any non-commissioned officer or private shall, at any regimental, battalion or company muster, behave disobediently or mutinously, or shall appear drunk on parade, the commanding officer shall cause him to be confined during the muster; and it shall further be the duty of the commanding officer to report the conduct of such non-commissioned officer, or private, to the next court-martial, which may be holden for the purpose of assessing fines, and upon conviction, the said non-commissioned officer or private shall be fined by the court, in any sum, not exceeding twenty dollars.

Sec. 23. *And be it further enacted*, That if any non-commissioned officer or soldier, shall behave himself disobediently or mutinously, at any time, when on duty, or before any court or board, directed by law to be held, the commanding officer, court or board, may confine him for the day; and if any bye-stander shall interrupt, molest or insult, any officer or soldier, while on duty, at a muster, or shall be guilty of misconduct before any court or board as aforesaid, the commanding officer of such court or board may cause him to be confined for the day.

Sec. 24. *And be it further enacted*, That if any person who is by law subject to perform militia duty, shall appear at any company, battalion or regimental muster, as a spectator or bye-stander, the commanding officer of the company to which he may belong, shall order him to take his place in the ranks, and for refusing so to do, the commanding officer as aforesaid, shall order him under confinement for the day; and the said offender shall moreover be fined in the sum of ten dollars.

COLOURS AND MUSIC.

Sec. 25. *And be it further enacted*, That the commanding officer of every regiment shall cause to be purchased, out of the monies arising from the fines, a set of colours for his regiment, and also a set of colours for each battalion in his regiment: he shall, in like manner, also procure for every company in his regiment, a drum and fife, or bugle-horn: and on the colours and drums shall be marked the numbers of the regiment and battalion, together with the name of the county to which they belong.

DETACHMENTS MAY BE ORDERED OUT.

Sec. 26. *And be it further enacted*, That the Governor be authorised and impowered, on any invasion or insurrection, to call forth such a number of the militia, and from such counties, as he may deem proper; and orders for the militia to be called forth as aforesaid, shall be sent to the commanding officer of the brigade, with notification of the place or places of rendezvous; who shall immediately take measures for detaching the same, with the necessary numbers and ranks of officers, by detail and rotation of duty.

Sec. 27. *And be it further enacted*, That if a sudden invasion shall be made into any county in this territory, or in case of insurrection in any county, the commanding officer in such county is hereby authorised and required to order out the whole, or such part of the militia as he may think necessary; and in such manner as he may judge best for repelling or suppressing such invasion or insurrection; or for assembling the militia required upon such invasions; or by order of the executive, the same measure shall be taken to summon them, as is directed in the case of musters.

DISCIPLINE AND PAY.

Sec. 28. *And be it further enacted*, That whenever any militia shall be called forth into actual service as aforesaid, they shall be governed by the articles of war, which govern the troops of the United States; and courts martial shall be held as therein directed, to be composed of militia officers, for the trial of any person in the militia; but to the cashiering of any officer, or capital punishment of any person, the approbation of the executive shall be necessary. When any militia shall be in actual service, they shall be allowed the same pay and rations as are allowed by Congress to the troops in the service of the United States.

PATROLES.

Sec. 29. *And be it further enacted*, That it shall be the duty of the captain or commanding officer of every company, to regulate the patroles within his own district, by making out, by rotation, at every muster of his company, a proper list of patrole detachments in the same; and appoint to such detachments a leader, or proper officer; which patrole detachments shall severally consist of such numbers as the captain or commanding officer shall think necessary; and shall perform the duty of a patrole not less than twice a month, over their district, until a new list of patrole detachments shall be made out, at the next company muster. It shall be the duty of such patrole detachments, twice in every month, or oftener, if thereto required by their respective officers, to patrole and visit all negro quarters, and other places, suspected of entertaining unlawful assemblies of slaves, servants, or other disorderly persons, unlawfully assembled; or any others, strolling about from one plantation to another, without a pass from his or her master, mistress, or owner. If the officer think proper, he may order any one so offending, to receive any number of lashes not exceeding ten: and if there shall be reason to suspect any such person or persons, as aforesaid, to be runaway, or if they shall behave in such a manner as, in the opinion of such officer, to deserve a greater punishment, he shall take them before the next justice of the peace, who, if he shall see cause, is hereby authorised to order any such slave, or servant, or strollers, or other disorderly persons, as aforesaid, to receive any number of lashes not exceeding twenty, on his or her bare back: *Provided*, That nothing contained herein, shall be construed to authorise the officer of any patrole, or any justice of the peace, to inflict corporal punishment upon any free white person.

Sec. 30. *And be it further enacted*, That every patroler shall be entitled to receive one dollar, for every night, or twelve hours, he shall be employed as a patroler; to be levied on the county, and collected as other taxes: and the captain of every company shall, upon due proof, once in every three months, furnish the patrolers with a certificate of their services; which certificate being presented before the justices of the county court, for their approbation, shall entitle the said patrolers to receive an order, to be issued by the said justices, on the county treasurer, for the payment of their services aforesaid. And if any person shall fail to attend and perform his duty as a patroler, being duly warned thereto, he shall, for every offence, pay a fine not exceeding two dollars, to be assessed by a court-martial; *Provided*, That no militia man shall be bound as a patroler out of his regular tour of duty.

REMOVALS INTO OTHER COMPANIES.

Sec. 31. *And be it further enacted*, That every militia man removing out of the bounds of one company, into another, shall apply to the commanding officer of the company to which he belonged, who shall give him a discharge, certifying the class to which he belongs, and whether he has discharged his tour of duty or not; and the time and date of such service: which certificate the said militia man shall produce to the captain or commanding officer of the company, in whose bounds he next settles, within ten days after his settlement: and the said captain or commanding officer is hereby required to enrol him in the numerical class specified in the said certificate: and if the militia man shall fail to produce the certificate as above directed, he shall be enrolled in the class destined to perform the next tour of duty. And the commanding officer of the company refusing to grant a certificate, upon application to him made, shall incur a penalty of thirty dollars; one half to the informer, the other half to be collected and applied as the other fines imposed by this act.

OF COURTS-MARTIAL.

Sec. 32. And whereas it is necessary and expedient that all conduct, which, in a military light, may be viewed as offences, should be noticed, and proper tribunals instituted for the trial thereof; as also for enquiring into delinquencies, and assessing fines thereon: *Be it enacted*, That the Governor shall have power to arrest the general, and order for his trial a general court-martial, to consist of thirteen members, five of whom shall be field officers, and eight captains: and the proceedings of such court shall be returned to the Governor, and by him transmitted to the President of the United States, for his final approbation, or confirmation: he shall likewise have power to arrest all other officers for misconduct, and upon trial and conviction before a court-martial, they may be censured or cashiered: the general may arrest and bring before a court-martial, all officers under his command, for misconduct, or report thereon to the Governor, for trial, at his option. A lieutenant-colonel commandant may arrest any officer under his command, and in like manner report him to the Governor for trial; or at the option of such lieutenant-colonel commandant, a general court-martial, to consist of nine officers, may, by his order, be held in his county, for the trial of such as may be under the rank of a field officer; the president of the said court shall be a field officer; and three at least of the members shall be captains; and where there is not a sufficient number of officers in any regiment to constitute a court where the arrest is made, the commanding officer of the regiment may call on the commanding officer of any adjacent regiment, to order as many officers from such regiment as will be sufficient to make a court. And any non-commissioned officer or soldier offending, shall be tried by a like general court-martial, and may, on conviction, be censured or fined, at the discretion of the court, not exceeding twenty dollars. For obtaining the necessary evidence for the trials aforesaid, the Governor, general, or commanding officer of the regiment (as the case may be) shall issue his summons; and every person failing to attend, shall forfeit and pay, upon a summons from the Governor, twenty dollars; and upon a summons from the general, or commanding officer of the regiment, ten dollars; to be reported by the commanding officer amongst other delinquencies, to the court-martial: *Provided*, That a reasonable excuse shall always be admitted.

Sec. 33. *And be it further enacted*, That a court-martial, convened for the trial of any officer or officers, shall have authority to censure, suspend or cashier: *Provided*, That the judgment of a court-martial, against an officer (except in the case of a brigadier-general, which is otherwise provided for) shall not be carried into effect until the same be approved of by the Governor or commander in chief, to whom the proceedings of the court shall be transmitted by the president thereof.

OF COURTS FOR THE ASSESSMENT OF FINES.

Sec. 34. *And be it further enacted*, That the commanding officers of regiments shall, on the same day, in the months of February and August, not exceeding fifteen, nor less than ten days, after the regimental and battalion muster, order the commanding officers of battalions and companies, to meet at the places where their last battalion musters respectively, were held: a majority of whom shall form a court of enquiry and assessment of fines; and it shall be the duty of the lieutenant-colonel commandant, to preside at such boards, and in case of his absence by sickness or otherwise, the next officer in rank shall preside. Every member of the said court-martial shall take the following oath, to be administered by the senior officer present, and afterwards by any other officer of the said board, to him: to wit:—"I do solemnly swear, that I will truly and faithfully enquire into all delinquencies which appear on the returns to be laid before me; and will assess the fines thereon as may seem just, without favour, partiality or affection. So help me God." The lieutenant-colonel commandant, or in his absence, the next officer in rank, shall then lay before the court all delinquencies, other than those of which the captains have cognizance, as directed by this act: whereupon they shall proceed to hear and determine on them.

Sec. 35. *And be it further enacted*, That within six days after the rising of a court-martial, the clerk thereof shall deliver a certified list of the fines, which may have been imposed by the said court, to the sheriff of the county, for collection; who shall give a receipt for the same, and shall within twenty days after the receipt of such list, collect the fines so imposed, and account for, and pay the same to the lieutenant-colonel commandant, or the commanding officer of the regiment; and the sheriff shall receive for collection, the same commission as is allowed for collecting other public monies; and in case the sheriff shall fail to render a just return of the fines by him collected, and account for the same within the said twenty days; such sheriff may be sued by the commanding officer of the regiment, for the amount of fines contained in such list aforesaid, in any court of record in this territory; and all such suits shall be tried and judgment rendered at the first court after the issuing of the writ. And should any person charged with fines, fail to make payment on demand, the sheriff is hereby authorised to make distress and sell therefor, in the same manner as is, or may be directed in the collection of public taxes.

CAPTAINS TO ASSESS CERTAIN FINES.

Sec. 36. *And be it further enacted*, That for the purpose of enforcing, in a more summary manner, obedience to militia duty, the captains or commanding officers of the several companies of militia within this territory, shall have authority, and they are hereby required, to assess and collect the fines which may accrue within their respective companies, in the following cases: to wit—On any non-commissioned officer or private, for absenting himself from muster, or for appearing at any battalion or regimental muster, without being armed, accoutred and equipped, as the law directs; and on any person subject to perform militia duty, for appearing at a muster as a spectator, and not taking his place in the ranks, when lawfully commanded.

Sec. 37. *And be it further enacted*, That the commanding officers of companies shall have authority to administer oaths or affirmations to delinquents under this act, and also to witnesses, relative to any delinquency.

Sec. 38. *And be it further enacted*, That ten days shall be allowed to delinquents, next after any muster, to offer their excuse to the commanding officer of their company; and if any delinquent shall fail, within ten days, to render such excuse of his delinquency, as the commanding officer as aforesaid, may deem sufficient, then the said commanding officer shall issue against him a writ of execution; directed to the orderly sergeant of his company, in the form following; to wit—

"MISSISSIPPI TERRITORY, }
COUNTY OF }

To A. B. Orderly Sergeant in the Regiment of Militia, Greeting;

WHEREAS C. D. (a non-commissioned officer or private, as the case may be) has incurred a fine of dollars, for" *(here insert the offence.)* "You are hereby commanded that of the goods and chattels of the said C. D. you cause to be made the said sum of to satisfy the fine aforesaid, together with fifty cents, your fees thereon, and make due return thereof, within twenty days from this date. Given under my hand, this day of

E. F. *Capt. (or commanding officer)*
of the company, in the
Regiment of Militia."

Sec. 39. *And be it further enacted*, That the orderly sergeant shall pay over all fines by him collected, to the commanding officer of the company, within the time limited, in the execution: and on his failure so to do, or refusal to account for the same, he shall be liable to forfeit and pay, for such offence, ten dollars; to be recovered by the said commanding officer, before any justice of the peace within the county.

Sec. 40. *And be it further enacted*, That the commanding officers of companies shall account for, and pay over to the commanding officers of the regiments to which they respectively belong, on the last days of March, June, September and December, all fines which may come into their hands, previous to any of those days: and on refusal or neglect so to account, they shall be liable to arrest by the commanding officer; and shall moreover be subject to forfeit and pay a sum double the amount of that which they so refuse or neglect to account for: to be recovered by the commanding officer of the regiment, in the county court wherein they may reside.

APPROPRIATION OF FINES.

Sec. 41. *And be it further enacted*, That all monies arising from fines, under the laws for the government of the militia, shall be kept by the commanding officers of the regiments, as a fund, to be employed from time to time, under the inspection and controul of the commander in chief of the militia, for the purpose of procuring colours and music, and for the purchasing of arms and ammunition, for the use of such persons in the regiment as shall not be able to procure the same; and the commanding officers of regiments shall be responsible for the same.

Sec. 42. *And be it further enacted*, That the commanding officer of every regiment shall, on or before the last day of December, in every year, render to the Executive an account upon oath, of all monies which shall have come to his hands by virtue of his office, and of his disbursements.

FORFEITURES.

Sec. 43. *And be it further enacted*, That for enforcing obedience to this act, the following forfeitures and penalties shall be incurred for delinquencies: to wit—By a lieutenant-colonel commandant, or a commanding officer of a regiment—for failing to summon any court or board, or to transmit any recommendation of any officer or officers to the Governor, or to report delinquencies, or to appoint regimental or battalion musters, or to deliver any commission or commissions, or to make returns of his regiment, as by this act directed, one hundred dollars—for failing to send in to actual service any militia legally called for, or to turn out his militia upon any invasion or insurrection of his county, two hundred dollars;—By a major, for failing to attend any court or board, or to give notice of any regimental or battalion muster, or to examine his battalion, or to report delinquencies, or to make any return as directed by this act, twenty-five dollars—for failing to call forth from his battalion, with due dispatch, any detachment of men and officers, as shall be required from time to time, by the commanding officer, on any call from the Governor, invasion of, or insurrection in his county, or requisition from a neighboring county, eighty dollars;—By a captain, for failing to attend any court, or to enrol his company, or to appoint private musters, or to give notice of regimental or battalion musters, or to attend any muster, armed and equipped, or to call or cause his roll to be called, or to examine his company and report delinquencies, or to make any return as directed by this act, twenty dollars—for failing to call forth such officers and men as shall from time to time, be legally called for, from his company, upon invasions or insurrections in his county, or requisition from an adjacent county, or failing on any such occasion, to repair to the place of rendezvous, forty dollars;—By a subaltern officer, for failing to attend any court or muster, armed and equipped, as directed, ten dollars—for failing to repair to the place of rendezvous, armed, and as required, when ordered, upon any call from the Governor, invasion of, or insurrection in the county, or requisition from a neighboring county, twenty dollars. And moreover, the said officers, for any of the said offences, shall be liable to arrest and trial, as military offenders. By a non-commissioned officer, or private, for failing to repair to his rendezvous, when ordered, upon any call from the Governor, invasion of, or insurrection in the county, or requisition from a neighboring county, ten dollars: *Provided always*, That a reasonable excuse shall be admitted.

Sec. 44. *And be it further enacted*, That if any non-commissioned officer or private shall absent himself from any company muster, being duly notified thereof, he shall be fined for every such offence, in a sum not exceeding two dollars, nor less than one dollar; for the same offence, at any battalion muster, he shall be fined in a sum not exceeding three dollars, nor less than one dollar and a half: and for a similar offence, at a regimental muster, he shall be fined in a sum not exceeding four dollars, nor less than two dollars.

Sec. 45. *And be it further enacted*, That if the brigade inspector shall omit to perform any of the duties hereby required of him, he shall, for every omission, be fined in a sum not exceeding fifty dollars; at the discretion of a court-martial.

Sec. 46. *And be it further enacted*, That if any commissioned, non-commissioned officer, or private, shall appear at any battalion or regimental muster, without being armed and accoutred, as the law directs, and not in the uniform prescribed, such commissioned officer shall be arrested, and tried by a court-martial for disobedience of orders: and such non-commissioned officer or private, for every such offence, shall be fined in the sum of two dollars, whenever sufficient arms can be procured, upon moderate terms, in the opinion of a court-martial: *Provided*, That every non-commissioned officer shall be allowed one month after the receipt of his commission, to provide himself with such arms and uniform as are required by law.

Sec. 47. *And be it further enacted*, That the fines and penalties incurred by infants and apprentices, for the breach or neglect of their duty, in any particular case by law required of them, shall be paid by the parent, guardian or master; and on the refusal of the parent, guardian or master, to pay any fine or penalty aforesaid, an execution shall issue against him or them, in like manner as in other cases made and provided for, in this act.

CLERKS AND PROVOST-MARTIAL.

Sec. 48. *And be it further enacted*, That the commanding officer of every regiment shall, on the day of regimental muster first to be held after any vacancy in the office of clerk or provost martial (his muster being over) order the majors and captains of his regiment to assemble at some convenient place at or near the muster ground, and then and there appoint by ballot a clerk or provost martial, as the case may be, who shall attend the courts or boards herein before directed to be held. Such clerk shall keep a fair record of the proceedings of such courts or boards, as also of the roster returned by the several captains or commanding officers of companies, for regular routine of duty; and shall perform all other duties required by this act; and together with the provost martial, shall receive such allowance, to be paid out of the fines arising from delinquencies, as the court or board shall see reasonable.

EXEMPTIONS ON ACCOUNT OF BODILY INFIRMITY.

Sec. 49. *And be it further enacted,* That courts-martial may exempt any military man from duty, on account of bodily infirmity, and may again direct such person to be enrolled when able to do duty.

RESIDENCE OF OFFICERS.

Sec. 50. *And be it further enacted,* That all militia officers shall reside within the bounds of their respective commands.

BRIGADE INSPECTOR'S DUTY.

Sec. 51. *And be it further enacted,* That it shall be the duty of the brigade inspector to attend the regimental and battalion meetings of the militia composing the brigade, during the time of their being under arms, to inspect their arms and superintend their exercise, agreeably to law, and such orders as he may receive from time to time, from the commander in chief, and make returns to him of the militia of the brigade, at least once in every year, reporting therein the actual situation, and the arms and every other thing which in his judgment, may relate to their government, and the general advancement of good order.

RANK.

Sec. 52. *And be it further enacted*, That the companies of each regiment or battalion, shall take post in the same, according to the age of the commissions of the several captains ; and if two or more officers of the same grade shall have commissions of equal date, the priority shall be decided by drawing lots in the presence of a majority of the field officers of the regiment, or battalion ; which lots shall be marked on the several commissions, and forever conclude the parties.

UNIFORM.

Sec. 53. *And be it further enacted*, That the Governor of this territory shall prescribe the colour and fashion of the uniform, clothing or regimentals, for the officers and privates of the militia ; and that within three months after the same shall be announced in general orders, it shall be deemed a duty to conform strictly thereto.

AIDS.

Sec. 54. *And be it further enacted*, That the Governor shall have authority, from time to time, to appoint a number of aids, not exceeding four, as to him may appear proper.

RESIGNATIONS.

Sec. 55. *And be it further enacted*, That in future all resignations of commissioned officers in th militia of this territory, shall be forwarded to the commanding officers of the regiments to which they respectively belong; and the said commanding officers shall transmit the same, so soon as may be, to the commander in chief, together with their nominations for filling such vacancies: the commander in chief shall have power to accept or refuse such resignation.

Sec. 56. *And be it further enacted*, That all acts of the legislature of this territory, heretofore enforced, relating to the militia, shall be, and the same are hereby repealed; *Provided however*, That all appointments heretofore made under any of the said acts, and all prosecutions, or rights to prosecute, shall not in any wise be affected by this act.

PART V.

COURTS OF JUSTICE:

JUDICIAL PROCEEDINGS.

LAWS ESTABLISHING COURTS OF JUSTICE, DEFINING THE DUTIES OF THEIR OFFICERS, AND REGULATING JUDICIAL PROCEEDINGS, CHIEFLY IN CIVIL CASES.

CHAP. I.

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AN ACT *for the appointment of Justices of the Peace, and the establishment of County Courts.*

JUSTICES MAY TAKE RECOGNIZANCES.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That a competent number of justices of the peace shall be appointed in every county; which justices, and every one of them, shall have power and authority, in or out of sessions, to take all manner of recognizances, with or without surety, for good behavior, to keep the peace, or for appearance at the superior judicatory, as the case may be, to answer to charges exhibited or crimes committed in the view of such justices, or any of them, and whereof they have not competent power to hear and determine. And in case any person or persons shall refuse to enter into recognizance as aforesaid, and to find surety when thereunto required, it shall and may be lawful for such justice or justices, in or out of sessions as aforesaid, to commit the person so refusing to gaol; there to remain, until he shall comply with the order of such justice or justices. All recognizances for the peace, good behaviour, or appearance at any court, or for suspicion of any manner of crime, shall be certified before the superior court of the county, to be holden next after the taking thereof, without concealing or detaining the same: and if any person shall forfeit his recognizance of the peace, good behaviour, or appearance, the recognizance so forfeited, with the record of default or cause of forfeiture, shall be sent and certified without delay, by the justice or justices of the peace, into such court.

POWERS OF JUSTICES.

Sec. 2. *And be it further enacted*, That one or more justices of the peace shall and may, out of sessions, hear and determine, according to the course of the common law, petit crimes and misdemeanors, wherein the punishment shall be by fine only, and not exceeding eight dollars; and may assess and tax costs. And in case any person shall refuse to obey, fulfil and perform the sentence or sentences given against him by the justice or justices; it shall be lawful for such justice or justices to commit the delinquent to jail, there to remain until such sentence be performed; and it shall be lawful for such justice or justices, whenever the crime shall be committed in his or their presence or view, to sentence as aforesaid, without any further examination; which fines shall be, by such justice or justices, paid to the treasurer of the county wherein the offence was committed. All warrants issued by a justice or justices, out of sessions, either for apprehending, securing or committing to jail, persons suspected or convicted of crimes, shall be under the hand of such justice or justices, and directed to the officer or officers, whose duty it shall be to execute criminal process; and such officer or officers shall obey the warrant or warrants issued as aforesaid.

PROVISIONS FOR RENDERING PROCESS EFFECTUAL.

Sec. 3. *And be it further enacted*, That to the and that persons indicted or accused for felonies or other offences in one county, who dwell, remove or shall be received into another county, may be brought to justice; the justices, or any of them, may direct their writs or precepts to all or any of the sheriffs, or other officers of the said counties, where need shall be, to take such persons so indicted or accused.* And it shall be lawful for the said justices, and every of them, to issue *subpænas* and other warrants, under their respective hands, into any county or place of this territory, for summoning or bringing any person or persons, to give evidence in and upon any matter or cause whatsoever, now or hereafter examinable, or in any way triable by or before them; under such pains and penalties as subpœnas or warrants of that kind usually are or ought by law to be granted or awarded.

JUSTICES MAY ISSUE STATE WARRANTS, AND COMMIT FELONS.

Sec. 4. *And be it further enacted*, That every justice of a county court and justice of the peace, in their respective counties, shall have authority, upon complaint on oath to them made of any crime, felony or misdemeanors, committed or done, to grant warrants to bring the offenders before them; and after examination, may commit to prison, or admit the party to bail, if the offence be bailable, and shall take recognizance with good and sufficient security, for the informer to appear at the superior court, and prosecute as the laws of the territory direct, and likewise for all the witnesses for and against the offender or offenders, to appear at the next court where the matter is cognizable, ensuing such examination; and which recognizance, so taken, shall be returnable to the office of the court where the matter is to be tried, under the penalty of two hundred dollars, one half to the informer; and the other half to the government; to be recovered in any court in the territory, by any person who may sue for the same.*

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* See also section the 5th of the "act to provide for the more effectual administration of justice."

HAVE COGNIZANCE OF CERTAIN DEBTS.

Sec. 5. *And be it further enacted*, That all debts and demands of twenty dollars and under, where the balance is due on any specialty, note or agreement, for money or specific articles, or goods, wares and merchandize, sold and delivered, or for work and labour done, are hereby declared to be cognizable and determinable by any one justice of the peace, who may give judgment and thereupon award an execution against the goods and chattels, or body of the debtor, which shall be executed and returned by a constable, to whom the same may be directed, in the same manner as a writ of *fieri facias* or *capias ad satisfaciendum* is to be executed and returned.

DEPOSITIONS OF ABSENT WITNESSES.

Sec. 6. *And be it further enacted*, That where a witness lives in another county in this territory, whose testimony is needed in any trial before a single justice, such justice may issue a *dedimus potestatem*, to any justice in the county wherein the witness resides, who shall take the deposition of such witness as therein directed, which shall be admitted as legal testimony: and the deposition so taken and returned, to the justice who granted the *dedimus potestatem*, shall be received by him as sufficient evidence in the case for which it was granted.

APPEALS.

Sec. 7. *And be it further enacted*, That if either party in a civil cause, upon a trial before a justice of the peace, shall be dissatisfied with the judgment of such justice, such party may appeal to the next county court; where the judgment, including costs, amounts to ten dollars, first giving security for prosecuting such appeal with effect; *Provided*, That the cause shall be tried by, and the appeal made from such justice, five days at least before the term to which the appeal shall be made, otherwise the cause shall be continued to the next succeeding term: *And provided further*, That the justice or justices before whom the suit was first heard, shall, at the request of the respective parties, summon such witnesses to court as they shall name, but shall not sit in court or give judgment on the appeal.

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* See more on this subject in the "act to provide for the more effectual administration of justice."

JUSTICES MAY GRANT ORIGINAL ATTACHMENTS.

Sec. 8. *And be it further enacted*, That every justice of the county courts shall have power, and he is hereby authorised and required, upon any complaint being made by any person or persons, for any debt or damage, matter or thing, cognizable in the county courts of this territory, to grant an original attachment against the estate of any person absconding or concealing himself, or removing out of the county privately, returnable to the court of such county; observing therein the rules and restrictions directed for granting original attachments in superior courts, and all sheriffs and coroners shall execute and return the same, and observe the rules and directions appointed to be observed in executing attachments returnable to the superior courts, and the like judgment, recovery and remedy, relief and proceedings, shall be had thereupon, as in like cases are grantable in the said superior courts.

Sec. 9. *And be it further enacted*, That any one justice of the peace, in caaes where, by this act, he has jurisdiction, may issue an original attachment against the estate of any absconding or absent debtor, upon oath of the plaintiff, his agent or attorney, directed to the sheriff or any constable of the county, first taking sufficient security, as in other cases of attachments; and the proceedings thereon shall be in a summary way, in the same manner as in warrants, and the defendant may replevy the goods attached, and either party may appeal from the judgment of the justice, as in other cases.

OF SECOND ATTACHMENTS AGAINST THE SAME DEFENDANTS.

Sec. 10. *And be it further enacted*, That when any attachment shall be granted by any justice of the peace, or any writ of attachment shall issue out of any inferior court, according to the directions of this law, no second or other attachment, or writ of attachment, granted or issued by the said justice, or any other justice within the same county, or by the justices of the same inferior court, against the real or personal estate of the same defendant, or the execution of them, or any of them, shall bind or affect the right, title, interest or property of, or in the real or personal estate of the same defendant, within the same county, or any part thereof; while the proceedings on the said first attachment, or writ of attachment, remain undetermined: any law, usage or custom, to the contrary notwithstanding.

SELECT JUSTICES TO BE APPOINTED.

Sec. 11. *And be it further enacted*, That it shall be lawful for the Governor to appoint and commission five persons in every county, (one of whom shall be commissioned chief-justice of the orphans' court) who shall be justices of the peace and of the *quorum*, in the counties respectively, for which they may be appointed. And the said five justices shall be justices of, and they, or any three of them, may hereafter hold, the county court, and orphans' court, of their respective counties: and the said court shall be held twice in every year, in every county within this territory, on the days and times hereinafter mentioned: that is to say, in the county of Washington, on the first Monday in January and July; in the county of Wilkinson, on the first Monday in January and July; in the county of Adams, on the second Monday in January and July; in the county of Jefferson, on the fourth Monday in January and July; and in the county of Claiborne, on the second Monday in February and August; and each of the said courts may continue to be held six judicial days at each term, and no longer.

COMPENSATION: TAX ON LAW SUITS.

Sec. 12. *And be it further enacted*, That every justice of the quorum, in every county in this territory, shall be allowed four dollars per day for every day he shall be employed in holding the county court of his county: and it shall be the duty of the clerks of the several county courts, upon the application of any such justice, to issue a certificate, certifying the number of days' attendance of such justice; which certificate, being produced to the auditor of public accounts, shall authorise him to issue his warrant on the territorial treasury, in favour of the bearer of such certificate, for the amount called for therein: and that for this purpose, a tax of fifty cents shall be hereafter laid on every cause, to be commenced in any court in this territory, to be paid at the time of issuing the writ, and fifty cents on every suit, depending on the 2d day of March, 1805, in every court in this territory, at the time of rendering the verdict, to be paid into the hands of the clerk of the proper court, who shall account on oath with the auditor of public accounts, semi-annually, for all such taxes received by him, and pay the same into the territorial treasury; and the said tax shall be taxed in the bill of costs.

TESTAMENTARY POWERS.

Sec. 13. *And be it further enacted*, That the said county courts shall have full power and authority to take the probate of wills, and also conveyances of real and other estates, and also to order the same to be recorded in proper bound books, to be kept for that purpose: and the said courts respectively, shall make orders for issuing letters testamentary, and letters of administration, which letters shall be signed and issued by the clerk of the said court, and may by summons, upon application made to them, compel any person or persons whatsoever, within their respective counties, having in their possession any will or testament of any deceased person, to exhibit the same to the court for legal probate thereof: and whoever being legally summoned, shall, in contempt of the court, refuse to produce any such will in his or her possession, or having been in his or her possession, shall refuse to inform the said court upon oath where such will then is; or in what manner he or she hath disposed of the same, such persons shall, by order of court, be committed to the common prison of the county, there to remain without bail or mainprize, until such will shall be produced, and due submission made to the said court, for such contempt: and the said court shall, and is hereby empowerd, in case of such person's removal, to issue such summons and process for commitment into any county in the territory. And in case that any person should die intestate, who is a non-resident, or not properly an inhabitant of this territory, it may be lawful for any justice of the county court, at such death, to notify the same to two other justices of the same court, who shall procure some respectable person to take an inventory on oath, of the goods and effects of such deceased person, which goods and effects shall by them be deposited in the hands of some respectable inhabitant of the county, who shall have the entire care and possession of such property, to the intent that such estate may be safely preserved, and kept subject to the order of the next county court, for administration thereon.

APPEALS IN TESTAMENTARY CASES.

Sec. 14. *And be it further enacted*, That if any person who shall claim a right to execute any will, or to administer on the estate of an intestate, and shall think himself injured by order of court for letters testamentary, or of administration, he shall be entitled to an appeal to the superior court of the county or district where such order shall have been made, subject to the same regulations as in other cases of appeals; and such superior court is hereby declared to have cognizance thereof; and shall, at their sitting next succeeding such appeal, determine the same; and upon such determination had, such court shall proceed to grant letters to the persons entitled to the same; he or she (if on administration) giving bond with sufficient security, for the faithful discharge of the trust; which bond and proceedings shall be transmitted by the clerk of the said superior court, to the office of the county court from whence the appeal issued, there to be entered and filed with the other testamentary transactions in such office. And for the better preservation of wills and other papers, relative to the estates of deceased persons: *Be it enacted*, That all original wills, inventories, and accounts of executors and administrators, shall remain in the clerk's office, among the records of the respective counties, where the same shall be proved or exhibited; and to the said wills, inventories and accounts, any person may have free access, except for the time they shall or may be removed before any other court, upon the determination of any controversy.

COUNTY COURTS TO HAVE CARE OF ORPHANS.

Sec. 15. *And be it further enacted*, That the justices of the several county courts in this territory, shall have authority, within their respective jurisdictions, from time to time, to take cognizance of all matters concerning orphans and their estates, and to appoint guardians in such cases where to them it shall appear necessary, and shall take good security of all guardians by them to be appointed, for the faithful discharge of the trust committed to them; and shall, during their terms, keep and hold the orphans' court, in pursuance of the act concerning wills and testaments, the settlement of intestates estates, and the duty of executors and administrators.

WHEN AND BY WHOM PROCESS MUST BE ISSUED.

Sec. 16. *And be it further enacted*, That all original process, and all subsequent process thereupon, to bring any person or persons to answer to any action, suit, bill or plaint, in any court in this territory, (except *subpœnas* for witnesses, which, in term time, may be made returnable immediately) shall be issued by the clerk of such court, and shall be returnable to the first day of the term, and shall be executed at least five days before the return thereof; and if any person shall take out any writ or process, while such court is sitting, or within five days before the beginning of the term; such writ or process shall be made returnable to the term next after that then held or to be held, within five days as aforesaid, and not otherwise;—and all writs and process issued, made returnable, or executed in any other manner, or at any other time, than is herein before directed, may be abated upon the plea of the defendant.

TO HAVE COGNIZANCE IN CERTAIN CIVIL SUITS.

Sec. 17. *And be it further enacted*, That the justices of the county courts, during their terms, shall moreover, as justices of the county courts of their respective counties, (except in the county of Washington) have jurisdiction, and may take cognizance of all actions of a civil nature, in their respective counties, wherein the value of the matter in controversy, shall not exceed one thousand dollars, excepting however real actions, actions of ejectment and trespass, *quare clausum fregit*; and the following rules of practice shall be observed in said county courts; the first day of every term shall be a return day, on which the plaintiff shall file his declaration, and the defendant shall plead thereto within the two succeeding days, and the plaintiff reply within the two days then next succeeding; and if rejoinder or further pleading be required, the court may, on application, limit the time therefor, and may, in any case wherein special pleading is necessary, enlarge the time therefor, at their discretion, so that the cause be brought to issue before the next succeeding term, and in default of declaring or pleading, a non pros. or judgment by default, may be entered; and if such judgment by default be in an action of debt, the same shall be final: but if a writ of enquiry be taken, the same shall be executed at the next succeeding term, by the jury attending such court: *Provided however*, That the said courts may, on good cause shewn, and on payment of costs, set aside a non pros. or judgment by default, on such terms as they may deem reasonable.

PRECEPTS TO BE ISSUED TO SUMMON JURORS, AND IN DEFAULT OF A SUFFICIENT NUMBER, QUALIFIED BYE-STANDERS TO BE CALLED.

Sec. 18. *And be it further enacted*, That the clerks of every county court, (except in the county of Washington) shall, at least ten days previous to every term, issue a *veniri facias*, directed to the sheriff, commanding him to summon and return fifteen good and lawful men of his county, to serve as jurors at the succeeding term of the said court; which number shall be summoned and returned by the sheriff, and serve as jurors during such term; and every juror summoned and failing to attend, without sufficient excuse, may be fined by the said court in any sum not exceeding ten dollars; and on a defect of jurors, a *tales de circumstantibus* may be ordered by the court.

CITATIONS OF WITNESSES, AND EXECUTIONS MAY GO TO ANY COUNTY.

Sec. 19. *And be it further enacted*, That the said county courts, and each of them, may issue *subpœnas* and writs of execution, directed to the sheriff or other proper officer of any county in this territory, which shall be executed and returned accordingly.

APPEALS ALLOWED FROM THE COUNTY TO THE SUPERIOR COURTS.

Sec. 20. *And be it further enacted*, That any person aggrieved by any final judgment, sentence or decree, of any county court, may appeal therefrom to the next term of the circuit court, to be held in such county, and in the district of Washington, to the superior court of the said district: *Provided*, that the appellant shall enter into bond with sufficient security, to be approved of by the court from whose judgment the appeal is taken, conditioned that the appellant shall prosecute his appeal to effect, and perform the sentence, judgment or decree which the circuit or superior court may render therein, which said bond shall make a part of the record in such case; and if judgment be given in the court above, against the appellant, the same shall be entered at the same time against his security in the appeal bond; and a trial *de novo* of issues in fact may be had on such appeals, in the court appealed to. No appeal in any cause or court whatsoever, shall be abated by the death of either plaintiff or defendant, but may be proceeded on by application of the heirs, executors, administrators or assigns of either.

DUTY OF THE CLERK ON AN APPEAL.

Sec. 21. *And be it further enacted*, That in every case when an appeal is obtained, it shall, in eight days after the adjournment of the court, be the duty of the clerk to make out an entire transcript of the record, in such case, and deliver the same to the appellant, or his attorney, who shall take the same to the clerk of the superior court, and shall by him be entered upon the docket for trial.

PRISON BOUNDS.

Sec. 22. *And be it further enacted*, That the justices of every county court shall be, and they are hereby required, and impowered, to mark and lay out the bounds and rules of their respective prisons, not exceeding ten acres, which marks and bounds shall be recorded, and renewed or altered, from time to time, as occasion shall require; and every prisoner not committed for treason or other felony, giving good security (at the discretion of the court, or three justices thereof, out of the court) to keep within the said rules and bounds, shall have liberty to walk therein, out of the prison, for the preservation of his or their health, and keeping continually within the said bounds, shall be adjudged and admitted in law a prisoner.

UNFINISHED BUSINESS TO BE LAID OVER.

Sec. 23. *And be it further enacted*, That if the business of any of the said county courts cannot be completed, ended and finished, within six days from the commencement of the said court inclusive, that all such actions, causes and matters that shall be depending in said court, shall remain undetermined and laid over to the next succeeding term.

PROVISIONS AGAINST DISCONTINUANCES.

Sec. 24. *And be it further enacted*, That none of the said county courts, nor any process in any of them depending, shall be discontinued for or by reason of the justices failing to hold court upon the day by law appointed, or of any alteration of any of the days appointed for holding the said courts, but in every such case, all such process, matters and things depending, shall stand continued, and all appearances upon returns of process, shall be made to the next succeeding term in course, in the same manner as if such succeeding term had been the same term to which such process had stood continued, or such returns or appearances had been made; and all bonds and obligations for appearances, and all returns, shall be of the same force and validity for the appearance of any person or persons, at such succeeding term; and all summonses for witnesses as effectual, as if the next succeeding term had been expressly mentioned therein.

EXECUTIONS MAY ISSUE TO ANY COUNTY.

Sec. 25. *And be it further enacted*, That when judgment shall be obtained in any county court, executions thereon may issue to any county within the territory, where the defendant or his goods may be found, and the sheriff of such county is hereby authorised and required to execute the same, and make due return thereon.

THE JURISDICTION OF WASHINGTON COUNTY COURT LIMITED.

Sec. 26. *And be it further enacted*, That the county courts of Washinton county shall not hereafter have any jurisdiction at common law, for the recovery of any debt or damages, in the determination of which a jury may be necessary, and no jury shall hereafter be returned to the said county court: and the superior court of the district of Washington shall have jurisdiction and cognizance of all actions and suits in which the value of the matter in controversy shall exceed twenty dollars; any law or usage to the contrary notwithstanding: *Provided however*, That it shall not be lawful for any attorney to demand or receive any greater fees for his services in the said superior court, than are allowed by law in the county courts for like services, except the sum for which the suit is brought shall exceed two hundred dollars.

OATH OF OFFICE FOR A JUSTICE OF THE QUORUM.

Sec. 27. *And be it further enacted*, That every person who shall be appointed a justice of the peace and of the *quorum*, shall, before entering on the duties of his office, take an oath to support the constitution of the United States, and also the following oath or affirmation, to wit:—"I, A. B. do solemnly swear (or affirm) that as a justice of the peace and of the quorum, in the county of ——, in all things will do equal right to the poor and rich, to the best of my judgment, and according to the laws of the territory. I will not privately nor openly by myself, or any other person, be of counsel in any quarrel or suit depending before me, and I will hold the county court of my county as the statute in that case shall and may direct; the fines and amercements that shall be made, and the forfeitures that shall be incurred, I will cause to be duly entered without concealment. I will not willingly or wittingly take, by myself, or by any other person for me, any fee, gift, gratuity or reward whatsoever, for any matter or thing by me to be done, by virtue of my office, except such fees as may be directed and limited by law: but I will well and truly perform the duties of my office as a justice of the peace and of the quorum. I will not delay any person of common right, through favour, affection or partiality. I will not direct, or cause to be directed, any warrant by me to be made to the parties, but will direct all such warrants to the sheriff or constables of the county, or other officers of the territory, or some other disinterested person, to do execution thereof: and finally, in all things belonging to my office, during my continuance therein, I will faithfully, truly and justly, according to the best of my skill and judgment, do equal and impartial justice to all: So help me God."

OATH OF OFFICE FOR A JUSTICE OF THE PEACE.

Sec. 28. *And be it further enacted*, That every person who shall be appointed a justice of the peace for any county within this territory, shall, before entering on the duties of his office, take an oath to support the constitution of the United States, and also the following oath:—"I, A. B. do solemnly swear, or affirm (as the case may be) that as a justice of the peace, I will in all things, do equal right to the poor and to the rich, to the best of my judgment, and according to the laws of the territory. I will not privately, nor openly, by myself or any other person, be of counsel in any quarrel or suit depending before me; the fines and amercements that shall be made, and the forfeitures that shall be incurred, I will cause to be duly entered without concealment. I will not willingly or wittingly take, either by myself, or by any other person for me, any fee, gift, gratuity or reward whatsoever, for any matter or thing by me to be done, by virtue of my office, except such fees as may be directed and limited by law, but I will well and truly perform the duties of my office, as a justice of the peace. I will not delay any person of common right, through favour, affection or partiality. I will not direct, or cause to be directed, any warrant by me to be made, to the parties, but will direct all such warrants to the sheriff or constable of the county, or other officers of the territory, or to some other disinterested person, to do execution thereof: and finally, in all things belonging to my office, during my continuance therein, I will faithfully, truly and justly, according to the best of my skill and judgment, do equal and impartial justice to all: So help me God."

PENALTY FOR NOT QUALIFYING.

Sec. 29. *And be it further enacted*, That if any person who shall be appointed a justice of the peace, shall presume to execute such office, without first qualifying himself in the manner by this act required, he shall forfeit and pay the sum of two hundred dollars, one moiety thereof to the territory, and the other moiety to him or them who shall sue for the same; to be recovered with costs, by action of debt, in any court having cognizance thereof.

CLERK'S BOND AND OATH.

Sec. 30. *And be it further enacted*, That each of the clerks of the several county courts within this territory, before entering on the duties of his office, shall give bond with approved security, payable to the Governor of this territory, for the time being, and his successors in office, in the sum of five thousand dollars, for the safe keeping of the records, and the faithful discharge of the duties of his office; which said bond shall be lodged in the office of the Secretary of the territory, and may be put in suit by the party or parties injured, in his or their own name, and shall not become void upon the first recovery, but may from time to time be put in suit, by action of debt, until the whole penalty shall be recovered: and each of the said clerks shall, moreover, before entering on the duties of their office, swear, or affirm, as the case may be, in manner following:—"I, A. B. do solemnly swear, or affirm, that by myself or any other person, I neither have given, nor will give, to any person or persons whatsoever, any gratuity, gift, fee or reward, in consideration of my appointment to the office of clerk of the county court of nor have I sold, nor offered to sell, nor will I sell or offer to sell, my interest in the said office. I also solemnly swear, (or affirm) that I will execute the office of clerk of the aforesaid county court, without prejudice, favour, affection or partiality, to the best of my skill and ability: So help me God." And should any of said clerks violate this oath, or willingly, wittingly, or corruptly do any thing contrary to the true intent and meaning of the said oath; such clerk shall be deemed, upon conviction thereof, guilty of a misdemeanor in office, and shall ever after be incapable of holding any office, civil or military, within this territory.

CHAP. II.

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AN ACT *establishing Superior Courts, and declaring the Powers of the Territorial Judges.*

POWERS AND DUTIES OF THE JUDGES.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That the territorial judges, and every one of them, shall have power and authority, when and as often as there may be occasion, to issue forth writs of error, certiorari and habeas corpus, and all other remedial and other writs and process returnable to the supreme court, or either of the circuit courts, or to the district court of Washington, as the case may be, and which are grantable by the judges, by virtue of their office. They shall, in their said courts, hear and determine all causes, matters and things cognizable in the same, and also hear and determine all and all manner of pleas, plaints and causes, which shall be removed or brought there from any court to be holden for the respective counties, and examine and correct all, and all manner of errors of the justices of the inferior courts, in their judgments, process and proceedings in the said courts, as well in all pleas of the government, as in all pleas real, personal and mixed, and thereupon reverse or affirm the said judgments, as the law doth or shall direct. They shall also examine, correct and furnish the contempts, omissions and neglects, favours, corruptions and defaults of all, or any of the justices of the peace, sheriffs, coroners, clerks and other officers, within their respective counties: and shall award process for levying, as well of such fines, forfeitures and amercements, as shall be estreated into the superior courts, as of the fines, forfeitures and amercements which shall be taxed and set there and not paid, to the uses to which they are or shall be appropriated; and generally shall minister ample justice to all persons, and amply exercise the jurisdiction and powers herein mentioned, concerning all and singular the premises, according to law.

LIMITATIONS OF THEIR POWERS.

Sec. 2. Whereas the government of this territory is instituted for the peace, protection, and happiness of the people thereof, and it being contrary to these objects, that any man, or body of men, should have or exercise in any case, an unlimited, arbitrary power to fine and imprison for offences against him, or themselves, in any capacity whatever; and whereas the trial by jury, in all penal, as well as criminal cases, is both a safe and adequate mode of investigation and decision, and should only be suspended in cases of absolute necessity:—*Be it enacted*, That no court shall, for any contempt against such court, pass judgment for, decree, order, or inflict, or cause to be inflicted, any fine exceeding the sum of twenty dollars: nor any imprisonment exceeding twenty-four hours; without the trial by jury, to assess the quantity of such fine, and determine the duration of such imprisonment.

Sec. 3. *And be it further enacted*, That no judge, or justice of the peace, for any contempt offered to him, shall have power to order and inflict; or cause to be inflicted, any fine exceeding the sum of six dollars; nor any imprisonment exceeding six hours. And if any court, judge or justice, shall offend herein, the person or persons so offending, shall be deemed guilty of a misdemeanor in office; and shall moreover be subject to the action of the party injured, for damges; to be assessed by a jury. And in all cases of trial by jury for any contempt, the truth of the matter may be given in evidence by the defendant, on the general issue.

Sec. 4. *Provided further*, That the foregoing restrictions are not intended, nor shall they be construed to affect cases arising under the militia laws; nor causes where a party served with process from any court, judge or justice, shall refuse to answer according to law; or to perform any decree, judgment, or order of the same.

See. 5. *And be it further enacted*, That the judges of the superior and inferior courts, shall not charge juries with respect to matters of fact, but may state the testimony, and declare the law.

TERRITORIAL JUDGES TO BE JUSTICES OF ASSIZE, &C.

Sec. 6. *And be it further enacted*, That the said territorial judges shall have power, from time to time, to deliver the jails of all persons who now are, or hereafter shall be committed, for treasons, murders, and all other crimes and misdemeanors whatsoever; and for that end, from time to time, to issue forth such necessary precepts and process, and force obedience thereto, as justices of assize, justices of oyer and terminer, and of jail delivery, may or can do within the United States.

SPECIAL COMMISSIONS FOR THE TRIAL OF CRIMINAL CASES.

Sec. 7. *And be it further enacted*, That the governor for the time being be and he is hereby authorized and required, by and with the advice and consent of two of the legislative council, as often as it shall be found necessary, to issue a commission* to the judges of the superior courts of the territory, impowering them, or any two of them, or the judge of the superior court of Washington district alone, in the said district, to hold a court of sessions of the peace, and oyer and terminer, for the trial of offenders, and to hear, try and detemine all crimes and misdemeanors, of what nature or kind soever, wherewith such offenders, or any of them, shall stand charged, and to give judgment and award execution thereon.

SUPREME AND CIRCUIT COURTS ESTABLISHED.

Sec. 8. *And be it further enacted*, That the said territorial judges shall hold at the place which is or may be established by law, for holding the sessions of the general assembly, a court of record to be called and styled "the supreme court of the Mississippi territory;" and said judges shall moreover hold a court of record, to be called and styled the "circuit court of the county of (naming the county)" twice in every year, in each of the counties of Wilkinson, Adams, Jeffeson and Claiborne, at the places appointed by law for holding the county courts in the said counties respectively: *Provided however*, That it shall not be the duty of the judge of the Washington district to attend either of the said courts.

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* The judges may hold a special session for the trial of criminals whenever it may be necessary, by the "act directing the mode of ſummoning juries, and for other purposes."

JURISDICTION OF THE CIRCUIT COURTS.

Sec. 9. *And be it further enacted*, That one or more of the said judges shall hold the said circuit courts for the counties aforesaid, respectively; and shall have full jurisdiction therein, of all actions and suits, real, personal and mixed, and causes, matters and things, arising under the constitution and laws of the United States, and ordinances and laws of this territory, and all things that may be cognizable therein, according to the principles and usages of law, and shall have all the power, authority and jurisdiction, in the said counties respectively, of justices of assize, nisi prius, oyer and terminer, and jail delivery. And each term of the said circuit courts may be held for the space of twelve judicial days, if business so long continue, and no longer; and in the absence of the judge or judges of any of said circuit courts, the sheriff of the county may adjourn the same from day to day, for the space of four days.

Sec. 10. *And be it further enacted*, That no circuit court shall take cognizance of any suit where the sum, or the value of the matter in controversy does not exceed two hundred dollars; but every such suit shall be commenced, tried and determined, in the county court of the county where the cause of action shall have originated. If any suit shall be commenced in any court for a less sum than such court can legally take cognizance of, or if any person shall demand a greater sum than is due, on purpose to evade this act, in either case the plaintiff shall be non-suited and pay costs; *Provided always*, That if the plaintiff, or any other person for him, will make an affidavit (to be filed in the clerk's office) that the sum for which the suit shall be brought, is really due, but that for want of proof or that the time limited for the recovery of any article, bars a recovery; then and in that case, such plaintiff shall have a verdict and judgment for what appears to be legally proved; any thing herein to the contrary notwithstanding: *And provided also*, That nothing herein contained shall extend, or be construed to extend to suits on bonds, penal bills, or any other action of debt grounded on a penalty, where the balance due on such bond or penal bill, or other action of debt, is not of less value than the sums herein before mentioned, to be limited for bringing suits in the said court.

WHERE PERSONAL AND REAL ACTIONS ARE TO BE TRIED.

Sec. 11. *And be it further enacted*, That all civil causes and suits to be instituted for determination before the territorial judges, shall be commenced in the circuit court of the county, in which the defendant may be found, or if it be a real action, action of ejectment, or trespass *quare clausum fregit*, then in the county in which the cause of action arose: and all causes and action so commenced in any circuit court, shall be brought to issue, according to the rules that may be ordained and established for the orderly conducting and management of business in the said courts; and if the said issue be an issue in fact, the same shall be tried by the jurors attending the said circuit court, at the next succeeding term, if there be time for trial thereof, and the same be not continued by order of court; and all causes remaining on the docket of any circuit court, at the rising thereof, shall be continued over of course for trial, at the next succeeding term.

PRIVILEGES OF FREE-HOLDERS AND OTHERS.

Sec. 12. *And be it further enacted*, That no freeholder of this territory, shall be sued out of the county of his permanent residence, provided the same be within this territory, unless it be in the actions enumerated in the last section, nor shall any person, who may reside in this territory, be held to bail if sued out of the district or county of his residence and freehold.

OF SUING JOINT OBLIGORS.

Sec. 13. And whereas joint obligors, and other persons against whom a joint cause of action may exist, frequently reside in different districts or counties, so that the same individual process cannot reach both or all such persons, whereby parties having just demands are greatly delayed in prosecuting the same:—For remedy thereof,

Be it enacted, That where any such joint cause of action shall exist, it shall be lawful for the plaintiff in such suit or action, to sue out two or more writs, directed to the sheriffs or other proper officers of the different counties where such defendants or parties jointly chargeable may be found; which process such sheriff or other officer shall execute accordingly, and return to the court from which the same issued, as in other cases;—and such writs so issued and returned, shall be filed together, and shall have the same force and effect, and the same proceedings and recovery may be had thereupon, as if one single writ had issued against all the defendants jointly, but it shall be the duty of the clerk issuing such process, or of the attorney, to endorse thereon, that both or all of the said writs are for one and the same cause of action, or otherwise the same shall abate on the plea of the defendant.

PROVISIONS IN CASE OF THE DEATH OF A JOINT OBLIGOR.

Sec. 14. And whereas it is a rule of common law, that in cases of the death of a joint obligor, the debt can never survive against his heirs, executors or administrators, which rule is frequently injurious and oppressive to the surviving obligors:—To remedy which,

Be it enacted, That from and after the passing of this act, in case of the death of one or more joint obligor or obligors, the joint debt or contract shall and may survive against the heirs, executors and administrators of the deceased obligor or obligors, as well as against the survivor or survivors: and when all the obligors shall die, the debt or contract shall survive against the heirs, executors and administrators, of all the said joint obligors.

OF THE CONSTRUCTION OF JOINT BONDS.

Sec. 15. *And be it further enacted*, That every joint bond, covenant, bill or promissory note, shall be deemed and construed to have the same effect in law, as a joint and several bond, covenant, bill or promissory note; and it shall be lawful to sue out process and proceed to judgment against any one of the obligors, covenanters or drawers of such bond, covenant, bill or promissory note, in the same manner as if the same were joint and several; any law or usage to the contrary notwithstanding.

JURISDICTION OF OFFENCES COMMITTED ON INDIAN LANDS.

Sec. 16. *And be it further enacted*, That all offences against the laws of this territory, committed within the limits of the same, on lands to which the Indian claim has not been extinguished, shall be cognizable in the superior court of the county or district to which the offender may be brought.

CERTAIN POINTS REMOVABLE INTO THE SUPREME COURT.

Sec. 17. *And be it further enacted*, That the said courts, and each of them, may grant judgment according to the principles and usages of law, in all cases cognizable before them, and award execution, directed to the sheriff or other proper officer of any county in this territory, which shall be executed and returned according to the commands thereof: *Provided*, That in civil causes, demurrers, points reserved at the trial, cases stated, special verdicts, motions in arrest of judgment and motions for new trials, may, at the discretion of the judge or judges of the circuit court, and shall, at the instance of either party, be heard and determined in the aforesaid supreme court, at their next succeeding term.

REGULATIONS AS TO CRIMINAL CASES.

Sec. 18. *And be it further enacted*, That at each of the said circuit courts, a grand jury of a competent number of good and lawful men of the county for which such court is held, shall be returned and empannelled agreeably to law, who shall enquire and true presentment make of all crimes, offences and misdemeanors committed in their county:—and thereupon, the judge or judges of the said circuit court is or are hereby empowered, authorised and required, to try all offenders so presented, and upon legal conviction by a jury, or on confession of guilt in open court, to proceed to judgment and award execution thereon as the law directs: *Provided*, That the judge or judges of the circuit court may, at his or their discretion, on a point reserved, motion in arrest of judgment, or for a new trial, in any criminal case, respite the judgment or sentence, and reserve such point or motion for the consideration of the supreme court, at their next succeeding term; and in such case the supreme court shall pronounce judgment, sentence or decree, as the law directs, and award execution accordingly.

CLERKS TO BE APPOINTED.

Sec. 19. *And be it further enacted*, That a person of skill and probity shall from time to time, be appointed clerk in each of the circuit courts of Wilkinson, Adams, Jefferson and Claiborne, respectively, whose duty it shall be to do and perform all things that appertain to the duties of a clerk of the court to which he is appointed.

JURISDICTION OF THE SUPREME COURT.

Sec. 20. *And be it further enacted*, That the supreme court shall be held by two at least of the said judges:—but one judge may adjourn the court from day to day, for the space of four days. The said judges shall have full power and jurisdiction therein, to hear and determine all causes brought before them by writ of error from any court of record in this territory, all demurrers, points reserved at the trial, cases stated, special verdicts, motions in arrest of judgment and for new trials, reserved for their consideration at any circuit court in either of the aforesaid counties, and to grant judgment thereon and award execution, except it be necessary in consequence of the determination of the said supreme court, that facts be ascertained or damages assessed by a jury, in which case the cause shall be remanded to the court from whence it was brought.

OF SPECIAL JURIES.

Sec. 21*. *And be it further enacted*, That in civil causes of difficulty and magnitude, trials may, at the discretion of the circuit court, be had in the supreme court, for such reasons and under such restrictions as trials at bar are usually granted; and on affidavit that the party applying, cannot, as is verily believed, have a fair trial in the court in which the cause is depending; and such trials shall be by a special jury, summoned and returned according to such rules as the supreme court shall ordain and establish in this behalf: so that each party shall be furnished with a list of the jurors, and have an opportunity of striking off nine at least of the pannel, before they are summoned: *Provided*, That the costs, over and above circuit court costs, shall be paid in any event of the suit, by the party applying for such trial.

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* N. B. The above section was the 8th section of the "act

THE SUPREME COURT TO ESTABLISH RULES.

Sec. 22. *And be it further enacted*, That the supreme court shall have power and authority to ordain and establish all necessary rules of practice for the orderly conducting and managing of business in the said court, and in the several circuit courts, and also in the offices of the several clerks, and to appoint days for taking rules in the said offices:—*Provided* such rules of practice be not contrary to the ordinance and laws for the government of this territory.

CIRCUIT COURT CLERKS TO ATTEND THE SUPREME COURT.

Sec. 23. *And be it further enacted*, That at eve-

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eſtabliſhing certain courts therein named, and regulating judicial proceedings in this Territory."

The provision for trials in the supreme court is repealed. The section is retained only for the purpoſe of elucidating a clause in the act concerning the mode of ſummoning juries, which relates to special juries in the superior court of Waſhington district.

ry term of the supreme court, the clerk of every circuit court shall attend with the records, minutes, papers and proceedings in every cause, concerning which any question is depending for determination in the supreme court, and shall also furnish to the clerk of the supreme court a memorandum of every judgment, (containing the names of the parties and the amount of such judgment) rendered at the preceding term of the circuit court of which he is clerk: and the clerk of the supreme court shall record the names of the parties, and amounts of the judgments contained in the said memorandums, in alphabetical order, in a book to be kept for that purpose.

CLERK OF THE SUPREME COURT.

Sec. 24. *And be it further enacted,* That a person of skill and probity shall, from time to time, be appointed the clerk of the supreme court, who shall do and perform all and singular those things that do or may pertain to the duties of a clerk of the said court.

ATTORNEY-GENERAL OF THE WESTERN COUNTIES.

Sec. 25. *And be it further enacted;* That the attorney-general for the counties of Adams, Wilkinson, Jefferson and Claiborne, shall not be compelled to attend the county courts of the counties aforesaid: but it shall be his duty, to attend the supreme and several circuit courts established by this act.

JURISDICTION OF THE WASHINGTON DISTRICT COURT.

Sec. 26. *And be it further enacted,* That the judge appointed, or hereafter to be appointed, in pursuance of the act of the Congress of the United States, entitled "An act for the appointment of an additional judge in the Mississippi Territory, and for other purposes," shall have power and authority to hold a superior court in the district of Washington, (including therein the whole county of Washington): and the said court and the judge thereof, shall have the same power, authority and jurisdiction, in the said district of Washington, as by this act are given to the supreme court, and to the circuit courts of the counties of Wilkinson, Adams, Jefferson and Claiborne, and to the judges thereof in the said counties: *Provided*, That an appeal by writ of error, from the judgment of the said superior court, to the aforesaid supreme court, may be had and obtained, agreeably to the provisions of the aforesaid act of the Congress of the United States: and in the absence of the judge of the said superior court, the sheriff of the county of Washington may adjourn the same from day to day, for the space of four days. And the said court may be held any number of days not exceeding eighteen.

CLERK OF THE SUPERIOR COURT OF WASHINGTON.

Sec. 27. *And be it further enacted*, That a person of skill and probity shall, from time to time, be appointed clerk of the said superior court of Washington, whose duty it shall be to do and perform all those things that appertain to the duties and office of a clerk of the said court.

COURT DAYS.

Sec. 28. *And be it further enacted*, That the said supreme court shall be holden on the fourth Mondays of May and November annually, and the said superior court for the district of Washington, shall be holden on the days mentioned in the said act of Congress; and the said circuit court for Claiborne county, on the first Mondays of March and September annually; and the said circuit court for the county of Jefferson, on the third Mondays in March and September annually; and the said circuit court for the county of Adams, on the second Mondays in April and October annually; and the said circuit court for the county of Wilkinson, on the first Mondays in May and November annually.

STYLE OF WRITS.

Sec. 29. *And be it further enacted,* That all writs made returnable to any of the courts of this territory, shall run in the name of the Mississippi Territory of the United States, and bear teste in the name of the first judge or justice of the court from which the same shall issue, except he be the plaintiff or defendant, and then in the name of one of the associate judges or justices: and all process issuing from any court shall bear teste of the first day of the term next preceding that to which the same shall be made returnable.

THE DAY OF ISSUING PROCESS TO BE NOTED.

Sec. 30. *And be it further enacted,* That the clerk issuing process shall mark thereon the day on which the same shall be issued, and the sheriff or other officer receiving the same in order to execute, shall in like manner, mark on every process the day on which he shall have received it: and every clerk, sheriff or other officer, neglecting so to do, shall forfeit and pay the sum of two hundred dollars, to be recovered by action of debt in any court of record, having cognizance thereof, with costs, by any person who shall sue for the same.

TIME AND MODE OF SERVING WRITS.

Sec. 31. *And be it further enacted*, That the time of serving and executing writs and processes, returnable into any circuit court, or into the supreme or superior courts aforesaid, shall be as prescribed by the act establishing county courts: and hereafter it shall not be necessary that any declaration or copy thereof accompany such writ or process, but a copy of such writ shall be left with the defendant, at the time of serving, and by the officer serving the same. And it shall be the duty of the clerk, or plaintiff's attorney, to indorse on the back of the writ, the cause of the action, the nature of the specialty, or the other grounds on which the action is founded: and the sheriff, on executing the writ, shall deliver to the defendant, together with a copy of the writ, a copy of the said indorsement.

TIME OF RETURNING WRITS.

Sec. 32. *And be it further enacted*, That all writs and other processes, original as well as *mesne*, in civil causes, (*subpœnas* for witnesses exceped, which may be made returnable immediately) shall be returnable on the first day of the term succeeding the issuing of such writs or processes; and if the sheriff or other officer shall neglect to return any process, on the first day of such term, he shall be liable as is usual on the expiration of a rule for the return of the same. Any process, warrant or precept issued by any judge, justice or clerk, on any criminal prosecution, on behalf of the government, may be issued at any time, and made returnable on any day of the term.

OF PLEAS.

Sec. 33. *And be it further enacted*, That the defendant in any cause, may plead as many several matters as he may judge necessary to his defence, provided he be not admitted to plead and demur to the whole; and provided also, that no plea of *non est factum* shall be admitted to be pleaded, but when accompanied with an affidavit of its truth.

Sec. 34. *And be it further enacted*, That no plea in abatement shall be received in any court, except accompanied with an affidavit of the truth of such plea, or the truth of it otherwise appear.

OF COSTS.

Sec. 34. *And be it further enacted*, That in all other cases, in civil actions, the party in whose favour judgment shall be given, or in case of nonsuit, dismission or discontinuance, the defendant shall be entitled to full costs; except when it is or may be otherwise directed by law.

OF ERRORS AND AMENDMENTS.

Sec. 35. *And be it further enacted*, That no summons, writ, declaration, return, process, judgment or other proceedings, in any of the courts of this territory, shall be abated, arrested, quashed or reversed, for any defect or want of form, but the said courts respectively, shall proceed and give judgment, according as the right of the cause and matter in law shall appear unto them, without regarding any imperfections, defects, or want of form, in such writ, declaration or other pleading, return, process, judgment, or course of proceeding whatsoever, except those only in cases of demurrer, which the party demurring shall specially set down and express, together with his demurrer as the cause thereof: and the said courts respectively shall and may, by virtue of this act, from time to time, amend all and every such imperfections, defects and want of form, (other than those which the party demurring shall express as aforesaid) or any mistake in the christian name or sir-name of either party, sum of money, quantity of merchandize, day, month or year, in the declaration or pleading, the name, sum, or quantity or time, being right in any part of the record or proceedings, and may at any time, permit either of the parties to amend any defect in the process or pleadings, upon such conditions as the said courts respectively, shall, in their discretion and by their rules, prescribe.

Sec. 36. *And be it further enacted*, That every person or persons, desirous of suffering a non-suit on trial, shall be barred therefrom, unless he or they do so before the jury retire from the bar: and no more than two new trials shall be granted in the same cause; and two non-suits shall be considered equal to a verdict against the party suffering the same.

PROCEEDINGS ON JUDGMENTS ON DEMURRER, &C.

Sec. 37. *And be it further enacted*, That in all judgments on demurrer, confession, *non sum informatus*, or by default, in actions of debt for a sum certain, the said courts are authorised to issue executions for the sums of such judgments, with such interest by way of damages, as may be legally due, and costs of suit:—and in all interlocutory judgments, a writ of enquiry shall be awarded, and such writ of enquiry may be executed at the next succeeding term, and the damages assessed by a jury attending the court in which they were awarded, except they be awarded in the supreme court, then to be executed at the next circuit court in which the suit was instituted.

DEATH OR ABSENCE OF A JUDGE NOT TO PRODUCE A DISCONTINUANCE.

Sec. 38. *And be it further enacted*, That no court, nor any proceedings therein, shall be discontinued by the death of any of the judges or justices thereof, or by their non-attendance at any term; but in such cases, all actions and suits, matters and things depending therein, shall stand continued of course, to the next succeeding term.

DUTY OF THE CLERK ON APPEALS AND WRITS OF ERROR.

Sec. 39. *And be it further enacted*, That when any appeal shall be granted by any court, or any writ of error be directed to the same, the clerk of such court shall immediately make up a full and perfect record of all the proceedings in such cause, and shall, on the application of either of the parties, give an attested copy of such record, with a taxation of all costs which have accrued, to the appellant or plaintiff in error, if required; and shall indorse on such copy, the day or days on which the same may have been demanded, and the day on which it shall be delivered, and sign his name as clerk thereto: and if by reason of the delay of any clerk, any transcript shall not be filed in time, or that the record is so erroneously or incorrectly made up, that the superior or supreme court cannot proceed thereon; such clerk shall, in either of the said cases, upon trial and conviction, be adjudged guilty of a misbehaviour in office, and shall forfeit and pay to the person entitled to such attested copy, the sum of two hundred dollars, to be recovered by action of debt in any court having cognizance thereof, and shall be farther liable to an action on the case for all damages which such person may sustain for want of such copy: *Provided always*, That if the judge or judges of the superior or supreme court, should be of opinion that there appears to be sufficient matter of substance in the transcript of the record and proceedings on any appeal or writ of error, to enable them to proceed thereon, the same shall not be dismissed for want of form; any thing herein contained to the contrary notwithstanding.

Sec. 40. *And be it further enacted*, That the clerk of any superior court, upon receiving a transcript of the record and proceedings in any suit, on which an appeal shall be made or writ of error allowed, shall give a receipt to the person delivering the same, and shall immediately endorse thereon the day on which it shall be delivered; and if he receive it fifteen days before the commencement of the term of the then next superior court of which he is clerk, he shall enter it upon the docket of causes for trial, and deliver to the parties such summonses for their witnesses as they may require:—but if such transcript be not delivered to such clerk, before fifteen days previous to the next succeeding term, then the clerk shall enter the cause on the reference docket of such court. And if the clerk of any superior court shall refuse, neglect or omit to do any of the duties which he is hereby required to perform, such clerk shall, upon trial and conviction, be deemed guilty of a misbehaviour in office, and shall forfeit and pay to the appellant or plaintiff in error, two hundred dollars, to be recovered by action of debt in any court having cognizance thereof, and be farther liable to an action on the case, for all damages which such appellant or plaintiff in error may sustain by reason of such refusal, neglect or omission.

EXECUTION MAY BE STAYED IN CERTAIN CASES.

Sec. 41. *And be it further enacted*, That when in any county or circuit court, or in the superior court of Washington district, judgment upon a verdict in a civil action shall be entered; execution may, on the motion of either party, at the discretion of the court, and on such conditions for the security of the adverse party as they may judge proper, be stayed thirty days from the time of entering judgment, in any county or circuit court, and forty days in the superior court of Washington district, to give time to the party making such motion, to apply for a writ of error.

THE COURTS TO MAKE RULES RELATING TO WRITS OF ERROR.

Sec. 42. *And be it further enacted*, That the said supreme court, and the said superior court for the district of Washington, may ordain and establish all necessary rules, respecting the granting, issuing, returning and hearing of writs of error, so that no writ of error shall be a *supersedeas*, nor any *supersedeas* be granted of any judgment in civil cases, unless the plaintiff or plaintiffs in error, first enter into bond with good and sufficient security to the adverse party, conditioned for the payment of the said judgment, damages, interest and costs, in case such judgment shall be affirmed, and also for performing the sentence, judgment or decree, which the supreme or superior court may render therein; and the supreme or superior court shall render such judgment or decree therein as the inferior court ought to have done, and award execution accordingly.

CHANCERY JURISDICTION.

Sec. 43. *And be it further enacted*, That the said supreme court, and the said superior court for the district of Washington, shall also be and act as courts in chancery in the said counties of Wilkinson, Adams, Jefferson and Claiborne, and in the district of Washington respectively; and shall have and exercise all the power, authority and jurisdiction incident to courts of chancery, and may ordain and establish all necessary rules for the orderly conducting of business in equity, and for hearing and taking orders on interlocutory matters in vacation. And the clerks of the said courts shall keep the rolls, records and proceedings in equity, separate and distinct from the proceedings in law in the said courts.

DISPUTED FACTS TO BE ASCERTAINED BY A JURY.

Sec. 44. *And be it further enacted*, That the said courts of chancery may direct an issue in fact to be tried, whenever they judge it necessary: and such issue shall be tried in the same manner, and by the same jury, and the same mode of proceeding observed in the trial thereof, in every respect, as if it were an issue in fact, joined in a suit in law in the same court.

THE JUDGES MAY ISSUE WRITS OF INJUNCTION, AND ORDERS TO REMAIN IN THE TERRITORY.

Sec. 45. *And be it further enacted*, That each of the territorial judges shall have power and authority to issue writs of injunction and *ne exeat*, when the case may require it: but every person shall be discharged from a writ of *ne exeat*, on giving good and sufficient security: and for that purpose the judge or court granting such writ shall indorse thereon the sum and number of securities required.

PROCESS AND EXECUTION TO ISSUE OUT OF CHANCERY.

Sec. 46. *And be it further enacted*, That the said courts sitting in chancery, shall have power and authority to order and issue all process, as hath usually belonged to courts of chancery: and in cases where decrees shall be passed for a sum of money, it shall be lawful for execution to issue thereon against the defendant's goods and chattels, lands and tenements, or against the defendant's body, to satisfy such decree and costs, in like manner and with the same force and effect, as executions may issue on judgments obtained at law in the supreme court of this territory.

THE DUTY OF THE CLERK IN ISSUING PROCESS.

Sec. 47. *And be it further enacted*, That on the complainant's filing his bill in the clerk's office in term time or vacation, it shall be the duty of the clerk to issue a *subpœna*, as is usual in cases of chancery, returnable to the next succeeding term; but in case either of the territorial judges shall give special order to hold the defendant or defendants to bail (which shall be done only on affidavit of the truth of the bill and of the damages sustained) it shall be the duty of the clerk to issue a writ to the sheriff of the proper county, together with a copy of the bill, which writ shall be in the following form, to wit:

"*Mississippi Territory of the United States*,
To the Sheriff of the County of *Greeting*:
We command you to take A. B. if he be found in your county, and safely keep him, so that you have his body before the judges (or judge) of the court sitting in chancery, at on the Monday of next ensuing to answer a bill in chancery preferred against him in our said court, by C. D. a copy of which bill accompanying this writ, you will deliver to the said A. B. Hereof fail not, and have you there at that time, this writ.
Witness, Esquire, judge of the court aforesaid, on the day of in the year of our Lord and of American Independence the ."

And the clerk shall indorse on such writ the sum in which the defendant is ordered by the judge to be held to bail. And the sheriff shall, by virtue of such writ, arrest the defendant, who shall not be discharged from such arrest until he enter into a bail bond, with good and sufficient security, in double the sum indorsed on such writ, conditioned to appear and answer the said bill:—and such bail bond shall be taken and assigned in the same manner, and have the same force and effect, and be liable to the same recovery as bail bonds taken in actions at law; and the sheriff is hereby required, at the time of serving such writ in chancery, to deliver to the defendant a copy of the bill: and if the defendant shall fail to appear according to the rules and practice of the court, after due service and return of such writ, and plead, answer or demur to the plaintiff's bill, the same may be taken *pro confessa*.

COSTS IN EQUITY.

Sec. 48. *And be it further enacted*, That costs in equity shall be paid by either party, at the discretion of the court.

OATH AND BOND OF THE CLERKS.

Sec. 49. *And be it further enacted*, That whenever a clerk shall be appointed to any circuit court, to the supreme court, or to the superior court of Washington district, he shall take an oath of office similar to that prescribed for the clerks of the county courts, and in like manner shall give bond and security, in the penal sum of seven thousand dollars:—and if any of the said clerks shall violate his oath, or willingly, wittingly or corruptly do any thing contrary to the true intent and meaning of the said oath: such clerk shall be deemed guilty, upon conviction, of misbehaviour in office, and shall ever after be incapable of holding any office civil or military.

CLERKS TO MAKE COMPLETE RECORDS.

Sec. 50. *And be it further enacted*, That it shall be the duty of every clerk of the several courts in this territory, within three months after the final determination of any suit or prosecution, to make up and enter in well bound books, to be kept by him for that purpose, a full and complete record of all the proceedings in such suit or prosecution: and every clerk who shall fail to make and enter a record as aforesaid, shall forfeit and pay the sum of twenty dollars, to be recovered before any court having jurisdiction thereof, and applied to the use of the territory. And in order to secure a due execution of the duty hereby required, the several parties to the suits or prosecutions, shall at all times have a right to inspect the said books and records of the court, in the presence of the clerk, in order to see if the records of the suit to which he is a party, hath been duly made up according to the directions of this act: and the clerks shall shew the said books and records accordingly; under the penalty of fifty dollars, to be recovered and appropriated to the use of the party so applying and refused.

CHAP. III.

AN ACT *to assist poor persons in their suits, and to enable infants to sue by their next friends.*

WHEREAS it is intended that impartial justice should be had and administered to all the citizens of this territory, as well to the poor as to the rich; and whereas poor citizens are not of ability or power to sue according to the laws of this land for redress of injuries and wrongs to them daily done, as well concerning their persons and their inheritance as other causes;—For remedy thereof;

in behalf of the poor persons of this land, not able to sue for their relief after the course of the law;

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That every poor person who shall have cause of action against any person within this territory, shall have by the discretion of the court before whom, writ or writs original and writs of *subpœna*, according to the nature of his cause, nothing paying for the same: and that the said court shall direct their clerk to issue the necessary process,—shall assign to him counsel learned in the laws, and appoint all other officers requisite and necessary to be had for the speed of the said suit, who shall do their duties without any reward for their counsels, help and business in the same.

Sec. 2. *Be it further enacted,* That in every case, where persons who are within age may sue; their next friends shall be admitted to sue for them.

CHAP. IV.

An Act *to erect the Town of Natchez into a City, and to incorporate the same.*

(Approved March 10, 1803.)

Natchez incorporated.

Limits.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That the town of Natchez, and such parts of the adjacent lands as are contained within the following limits and boundaries, shall be, and the same is hereby erected into a city: that is to say, assuming the door of the church within the said city as a central or regulating point; and from thence running in the direction of the street immediately in front of said church, which was laid off in the directions of N

30 E. and S. 30 deg. W.; one mile each direction: at the extremity of which last two lines, two points will be given; which being connected by a right line, will form the rear boundary of the said city: from thence returning to the two first points found in the upper and lower boundaries, and continuing said lines or boundaries parrallel to the streets of the city, which were laid off N. 60 W. to the middle of the river Mississippi, or national boundary, be between the territories of the United States and those of Spain: and thence along said national boundary, thereby completing the limits of the said city: which said city, included within the limits and boundaries herein described, shall henceforth be distinguished, known and called by the name of the CITY OF NATCHEZ.

Title.

Sec. 2. *And be it further enacted*, That for the better ordering, ruling and governing the said city of Natchez, and the inhabitants thereof, there shall henceforth be in the said city a Mayor, who shall be keeper of the city seal; a Recorder, who besides the office of Recorder, shall in case of the absence, death, or other disability of the Mayor, have, hold, use, and execute the several duties annexed to the Mayoralty, and every of them, during such absence, or other disability: three Aldermen, and six Assistants; which Mayor, Recorder, Aldermen and Assistants, shall be one body politic and corporate, in fact, and name; by the name, style and title of “The Mayor, Aldermen and Assistants of the City of Natchez;” and by the same name shall have perpetual succession, and they, and their successors, at all times hereafter, by the name, style and title of “The Mayor, Aldermen and Assistants of the city of Natchez,” shall be persons, able, and capable in law, to have, purchase, take, and receive, possess and enjoy lands, tenements, liberties, franchises, and jurisdictions, goods, chat-

A Mayor,

Recorder,

Three Aldermen & ſix Aſſiſtants to be a body corporate.

Title.

tels, and effects, to grant, bargain and sell, alien, convey, demise and dispose of; to sue and be sued, implead and be impleaded, in any court of justice whatever; and to make and use one common seal; and the same to alter and renew at pleasure.

Mayor, &c. to be magiſtrates,

and to hold a court of record.

Juriſdiction in criminal caſes,

In civil caſes,

Proviſo.

Civil proceedings to be ſummary,

unleſs a jury be demanded

Sec. 3. *And be it further enacted*, That the said Mayor, Recorder and Aldermen, shall be appointed and commissioned by the Governor as Magistrates and Justices of the Peace of the said city; which said Magistrates, or a majority of them, shall have power to hold a court of record on the first Monday of every month; to be held not exceeding three days for each month; and to be called "The Mayor's Court of the City of Natchez:" which said court shall have jurisdiction of all crimes and trespasses committed within the said city, where the punishment shall not exceed a fine of fifty dollars; imprisonment for one month; whipping on the bare back, not exceeding thirty-nine lashes; sitting in the stocks for six hours; or standing in the pillory for three hours: and of all civil actions, the cause of which hath originated within the said city, or where the defendant usually resides within the said city; or being a transient person, may be found within the same; for any sum, not exceeding one hundred dollars: *Provided*, That no citizen of this territory, whose residence is not within the limits of the said city, shall be liable to be sued in any civil action, the cause of which hath not originated within the said city, before the said court: but shall be subject to prosecution and punishment in all criminal cases, cognizable by the said court: and the said court shall decide in a summary way, upon all such civil causes as are herein subjected to their jurisdiction: *Provided nevertheless*, That if the matter in dispute be above twenty dollars, the parties, or either of them, shall have a right to demand a trial by jury; which shall accordingly be granted

Execution to be ſtayed in certain caſes.

Appeal.

forms of proceſs.

fees, &c. to be the ſame as in other courts.

Mayor's court to licence taverns

by the court; *Provided also*, That in all cases when judgment shall be obtained for sums above twenty and under fifty dollars, stay of execution shall be granted for thirty days, on security being given to the satisfaction of the court, for the due payment of the amount of their judgment; and if exceeding fifty dollars, stay of execution shall be granted sixty days, like security being given by the debtor: and if either party shall think him or herself aggrieved by the judgment of said court, he or she shall have a right of appeal where the matter in dispute exceeds fifty dollars, to the superior court of the district of Adams; he or she giving bond with sufficient security, in such sum as the court shall direct; conditioned for the prosecution of the said appeal to effect, and for satisfying the judgment, which the said superior court may render therein, in case such appellant shall have the cause decided against him or her; and the said court shall have power and authority to issue the same form of process, with the change only of the style of the court, for compelling the appearance of the party or witnesses; or for taking depositions, or punishing contempts; or for doing execution upon judgment, as is now practised by other courts within this territory; and shall be executed by the officers appointed to execute such process; who shall receive therefor the fees allowed by law, for similar services, and be entitled to the like remedy for the recovery thereof; and the said court shall have the sole right and power of licensing all and every innkeeper, tavern-keeper, and retailer of spiritous liquors, residing within the said city, under such restrictions and provisions as have or shall be prescribed by law; any law, usage or custom to the contrary notwithstanding.

Sec. 4. *And be it further enacted*, That the freeholders, land-holders and house-holders of the city

Freeholders &c. to elect certain officers.

Clerk & marſhal to be appointed.

Houſeholders deſcribed.

Five days notice of the election to be given.

of Natchez, shall have power and authority to assemble and hold a meeting, at or near the government-house, in the said city, on the first Monday in the month of April next; and then and there, by a majority of votes, to elect the said six Assistants, and also a City Treasurer, Assessor and Coltor, to serve for one year: and there shall also be in the said city, a City Clerk, who shall be Clerk of the Mayor's Court; and a Marshal; which said Clerk and Marshal shall be appointed and commissioned by the Governor; and for the better understanding of the meaning of the term house-holder, it is hereby declared, that any person who shall be in the occupancy of a room, or rooms, separate and apart to himself, shall be deemed a house-holder, and entitled to vote at the annual, and other meetings of the said city: *Provided*, That such occupancy shall have existed six months next preceding such election: and the said free-holders, land-holders, and house-holders, shall have power and authority, in all succeeding years, to hold annual meetings, at such place within the said city, as a majority of the said magistrates or justices shall appoint by notification, five days previous to the time of holding such meeting, for the purpose of electing, as aforesaid, six Assistants, a City Treasurer, Assessor, and Collector, to serve for one year next ensuing: and when by death, removal or otherwise, any vacancy or vacancies shall happen in any of the said elective offices, the Mayor, for the time being, is hereby required and directed to call a meeting (giving at least five days previous notice) of the said free-holders, land-holders, and house-holders of the said city; who when assembled, are hereby authorised by a majority of votes, to elect such fit person or persons as are necessary to fill up and supply such vacancy or vacancies.

Sec. 5. *And be it further enacted*, That the May or, Recorder, Aldermen and Assistants, or a majority of them, (of which the Mayor or Recorder is always to be one) shall have full power, from time to time, and at all times hereafter, to hold a common council within the said city, at some convenient place, as the Mayor, or in his absence, the Recorder, shall appoint: and to make such bye-laws, ordinances, and regulations, in writing, not inconsistent with the constitution and laws of the United States, and the laws of this territory, as to them shall appear necessary for the good government of the said city, and the inhabitants thereof; and the same to put in execution, revoke, alter, and make anew, as to them shall appear necessary and convenient. *Provided always*, That all such laws by them made, be subject to the inspection and controul of the territorial legislature: and to appoint a clerk of the market, and such other subordinate officers, as they may think necessary for the good government of the said city; and by ordinance, to require such security from the several officers, and to annex such fees to the several offices of the corporation; and to impose such fines for the refusal of office, or neglect of duty, or misconduct in the same, as to them shall appear necessary; and to make, limit, impose, and tax reasonable fines and amercements, in any one case, not exceeding fifty dollars, against all, and upon all persons, who shall offend against the laws, ordinances, and regulations of the corporation, made as aforesaid: and all such fines and amercements, to take, demand, require and levy of the goods and chattels of such offender, by warrant, issued under the hand and seal of the Mayor, Recorder, or either of the Aldermen, directed to the Marshal of the said city; who is hereby required and authorised to execute the same. Which fines and amercements shall be paid to the City Treasurer; to be

Mayor, &c. to hold a common council,

and make bye laws.

To appoint a clerk of the market, &c.

and impose fines.

appropriated to the use and benefit of the inhabitants thereof.

Appeal from the mayor to the council.

Provided always, That every person, who may think him or herself aggrieved by the decision of the said Mayor, or Recorder, or Aldermen, may appeal to the common council, who are hereby required to hear his, or her cause of complaint, and to do therein, what unto them shall appear just and equitable.

Aſſiſtants to form a chamber of repreſentatives.

Their power

Meeting of freeholders may be called

Sec. 6. *And be it further enacted*, That the said six Assistants may be assembled at the usual place of holding the common council; five days public notice being publicly given by any two of the said Assistants. Which said six Assistants, so assembled, shall be stiled and called by the name and title of the chamber of representatives of the city of Natchez, and shall from time to time, by a majority of votes, have power and authority to raise such sum or sums of money, to be paid by the said free-holders, land-holders and house-holders, as they may think necessary for the supply of the said city: *Provided*, That the sum or sums, so to be raised, shall not in any one year exceed the sum of twenty-five cents for every hundred dollars, upon the amount of property in the said city, liable to assessment. Which said sum or sums shall be assessed upon the said free-holders, land-holders and house-holders, in the said city, by the Assessors, conformable to the bye laws and regulations, to be made by the common council, and collected by the Collector or Marshal, at such time, and be paid and disposed of, in such manner as the common council shall direct. But if the sum or sums so collected shall be found insufficient for the supply of the wants of the said city, it shall be lawful for any three of the said magistrates to call a meeting of the free-holders, land-holders and house-holders, of the said city, by giving public notice five days before the day of the meeting, specifying the objects and amount of the sums necessary for carrying the same into effect. And the said meeting shall have authority, by a majority of votes, to order such further sum or sums to be raised, as to them shall seem fit and expedient; to be assessed, paid and collected, as shall be directed by the rules and ordinances of the said common council.

Sec. 8. *And be it further enacted*, That this act shall be in force from and after the passing thereof.

CHAP. V.

AN ACT *supplemental to the act entitled "An act to erect the Town of Natchez into a City, and to incorporate the same."*

(Approved March the 8th, 1805.)

Mayor, &c. to alter and appoint the number of terms, & time of holding them.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That the Mayor, Aldermen and Assistants of the City of Natchez be, and they are hereby authorised and empowered, to alter and appoint the days and times of holding the sessions of the Mayor's Court of the said City, and also to take away any number of the terms of said court, so that six terms thereof be holden in each year.

Jurisdiction in certain cases.

Sec. 2. *And be it further enacted*, That said court may hereafter take cognizance, and have jurisdiction of all civil causes and actions, wherein the matter in controversy shall not exceed the value of five hundred dollars, and the defendant and plaintiff usually reside in the said city; or one of them usually resides in the said city, and the other is a transient person; or wherein both parties are transient persons, or the plaintiff resides out of this territory, and the defendant resides in said city, or is a transient person: *Provided*, That nothing in this act contained, or in the act to which this is a supplement, shall be hereafter so construed as to the Mayor's Court to take cognizance or jurisdiction of any civil cause or action, wherein either the plaintiff or defendant is a permanent resident of any part of this territory, without the limits of said city: *Provided also*, That the fees taken and allowed in the Mayor's Court, in any suit brought after the passing of this act, shall not exceed the fees established by law for the county courts.

Limitation of fees.

CHAP. VI.

AN ACT *concerning Bail in civil cases.*

In what caſes bail ſhall be required.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That in all actions, to be commenced in any court of record in this territory, and founded on any specialty, bill, or note in writing, signed by the defendant, or on the judgment of any court, foreign or domestic; and the nature of such action endorsed on the writ, attested by the clerk, or attorney for the plaintiff, setting forth the dates of such specialties, bills, notes or judgments: and the sum or sums which appear thereby secured and unpaid, the defendant or defendants shall be held to bail of cours for the sum or sums so endorsed. And in all actions of account, covenant broken, and action founded on verbal contracts, and assumpsits in law in which the plaintiff or other credible person ca ascertain the sum or sums due, or damages su tained: and either of them make affidavit thereo to the best of his or her knowledge and belief: ar the same be filed in the clerk's office, the cle shall endorse on the writ the sum so sworn to: and the defendant, or defendants shall be held to bail for the sum or sums so endorsed, by the Clerk, or attested by any justice of the peace, taking such affidavit. And in actions, sounding merely in damages, where the same cannot be ascertained as aforesaid, the defendant or defendants, shall not be held to bail, except by order of the court, or some one of the judges o justices thereof, upon sufficient cause shewn by affidavit: and such order, and the sum for which bail is required, be endorsed on the writ by the court, judge or justice: *Provided*, That executors and administrators, when sued in such capacity, and persons sued on such penal statutes as do not expressly require bail, shall not be held to bail in such suits.

Executors not to be held to bail.

Sec. 2. *And be it further enacted*, That every person unlawfully held to bail, may be discharged therefrom, on motion to the court, into which the writ is made returnable, and filing common bail. And in every action wherein bail is required: the process may be by *capias ad respondendum*, and it shall be endorsed thereon by the clerk, or plaintiff's attorney, that "no bail is required," to which an appearance may be effected by filing common bail. And when any writ shall issue from any of the said courts, whereupon bail is required, the sheriff or other officer, to whomsoever the same may be directed, shall take a bailbond with sufficient security or securities, in the penalty of double the sum for which bail is required by the endorsement on such writ: which said bond the sheriff or other officer shall return with such writ. And in case the sheriff or other officer shall neglect to take such bond, or the bail returned shall be held insufficient, on exception taken and entered the same term to which such writ shall be made returnable, the sheriff or other officer having due notice of taking such

Unlawfully held to bail how dischar-ged.

Sheriff to take bailbond

exception, shall in either case be deemed and stand as special bail: and the plaintiff may proceed to judgment against such sheriff or other officer, as in other cases against special bail.

Sheriff to ſtand ſpecial bail.

Sec. 3. *And be it further enacted*, That all bail bonds, returned to any of the said courts, shall be assigned by the sheriff, or other officer, returning the same, by indorsement thereon, in the following form, to wit—" I, A. B. sheriff (or coroner, as the case may be) of the county of —— do hereby assign the within obligation and condition to C. D. his executors and administrators; to be sued for according to the statute in such cases made and provided. In witness whereof, I have hereunto set my hand and seal, this — day of ——, in the year of our Lord ——." And any sheriff or other officer, failing to make such assignment, shall be deemed and held as special bail, in the same manner as if no bail had been taken.

Sheriff to aſſignbailbond.

form thereof.

or to ſtand ſpecial bail.

Sec. 4. *And be it further enacted*, That where any sheriff shall return, that he hath taken the body of any defendant, and committed him to the prison of the county in which the arrest was made, which is hereby declared to be the proper prison for confinement, the plaintiff may enter the defendant's appearance: and he shall be at liberty to plead as if such appearance had been entered by himself: and the plaintiff may proceed to judgment as in other cases. Nevertheless the defendant shall not be discharged out of custody, but by putting in bail, or by rule of court, or special order of one of the territorial judges.

Proceedings on return of defendant in cuſtody.

Sec. 5. *And be it further enacted*, That the bail shall have liberty at any time, before final judgment obtained against him to surrender to the court, from which the process issued, or to the sheriff returning such process, during the sitting of such court, or to the sheriff in the recess of such court;

Bail may arreſt and ſurrender principal.

the principal in discharge of himſelf; and such bail, shall at any time before such judgment, have full power and authority to arrest the body of his principal, and secure him, until he shall have an opportunity to surrender him to the sheriff, who made the arrest; or his successor in office; or to the court, to which the process was returnable. And such sheriff is hereby required to receive such surrender, and hold the body of the defendant in custody as if bail had never been given.

Sec. 6. *And be it further enacted*, That it shall be lawful for any defendant* in an action where

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* This section comprehends an act, which was paſſed in the year 1799, under the title of a "Law pointing out the mode of entering special bail out of term time:" though ſome doubts may be entertained whether it be not in a great measure ſuperceded by that clause in the following section (from the act of 1805, and which was first introduced into an act of 1800) which declares, that all bail, taken as before directed, shall be considered as special bail. The present section, however, if it be of no other uſe, clearly aſcertains what our laws mean by *special* bail. It appears to be the same as in England is termed *bail to the action*. *There* the term *special* bail is used in order to designate real and ſubstantial bondsmen, in contradistinction to *common* bail, or mere imaginary sureties: and the only thing which these bondsmen undertake, is *that the defendant shall appear in court at the return of the writ, to answer the plea of the plaintiff.*

Upon the return of the writ, or within four days after, the defendant must appear accordingly. This appearance is effected by putting in and justifying *bail to the action;* which is commonly called putting in bail above. This must be done either in open court, or before one of the judges thereof; or elſe in the country before a commissioner appointed for that purpoſe, by virtue of a statute of the 4th of William and Mary.

These bail to the action jointly, and severally undertake, "*that if the defendant be condemned in the action, he shall pay the condemnation, or render himſelf a prisoner, or that they will pay it for him.*"

In Virginia a different phraseology has been adopted, although the legal principles and usages of that state are very generally derived from those of England. *There* the English *special* bail is called *appearance* bail; and what in England is

Recognizance of special bail.

special bail is required, to go before any one of the territorial judges, or a justice of the peace for the county wherein the suit was originated, to take recognizances of special bail in the following form; to wit—" Be it known, that on the — day of ——, " in the year of our Lord ——, came A. B. before " me, C. D. a justice of the peace, in and for the " county of E. and undertook in behalf of F. G. to " be his special bail in an action of ——, now depending in the court of the said county of E. where" in H. I. is plaintiff, and the said F. G. defendant. " And in case the said F. G. should be cast in the " action, he shall pay and satisfy the condemnation " of the court, or surrender his body in custody: " or that he the said A. B. will do it for him. " Given under my hand and seal, the day and year " above written. C. D." Which recognizance of special bail shall be filed in the clerk's office, amongst the papers in the suit to which it has reſerence. But the plaintiff may object to the sufficiency of the bail at the succeeding court, of which objection the defendant shall have ten days notice, previous to the day on which such objection is intended to be made: *Provided* The recognizance of bail be filed fifteen days before the court, at which such objection should be made. And if the court shall be of opinion, that the bail is not sufficient, the suit shall remain in the same situation as if no such recognizance had been filed.

Form.

Proviso.

Sec. 7. *And be it further enacted*, That all bail taken according to the directions of this act, shall be deemed, held and taken as special bail, and as such be liable to the recovery of the plaintiff. But

Bail taken under this act ſpecial bail.

called *bail to the action*, is in Virginia termed *special* bail. The laws of the Mississippi Territory, though they do not profeſsedly claim any relationship to thoſe of Virginia, appear in this instance to have adopted the Virginia phraseology in preference to that of England.

the plaintiff shall not proceed against such bail until execution hath been returned, that the defendant is not to be found in his proper county, when the plaintiff may proceed against such bail, as is usual to proceed against special bail in other cases. And the bail shall have liberty at any time before the return of the first *scire facias* against them, returned *scire feci*, or of the second returned *nihil*, to render the principal in discharge of his bail, on payment of costs, however, in either case of such *scire facias*. And such render, if made in term time, shall be to the court from whence the process issued, and if in the recess of such court, to the officer who made the arrest; which officer is hereby required to receive such render, and execute to the bail a certificate thereof; and hold the body of the defendant in custody, as if no bail had been taken. And such render and commitment, duly certified to the clerk, in vacation, or entry of render, in open court, in term time, and in either case, notice thereof given to the plaintiff, or his attorney, shall discharge the bail. And the bail shall have full power and authority to arrest the body of the principal, and secure him, to enable them to render him as aforesaid: *Provided however*, That if such render be made before final judgment against the principal, the court or sheriff, to whichsoever such render shall be made, are hereby authorised to take the defendants recognizance of special bail, with such other sufficient bail as he may offer: and if taken by the sheriff, he shall file the same in the court where the suit is depending, on the first day of the next term: and the bail therein shall be liable to exception in the same manner as bail in the original bail bond. And the bail shall have the same privileges, and be subjected to a recovery in the same manner.

Privileges of bail.

Proviso.

Sec. 8. *And be it further enacted*, That when any *scire facias* shall by the proper officer be returned to have been made known to the bail; and they in consequence thereof shall appear, they shall be obliged to plead, and the issue shall be tried the same term to which the process shall be returned; unless sufficient cause be shewn to the court to the contrary; but the bail shall not be admitted to plead, *non est factum*, unless they first file an affidavit of the truth of their plea: *Provided nevertheless*, That if any sheriff shall return on any *sciere facias*, to him directed, that the principal is imprisoned by virtue of any process, civil or criminal; the court, to which such *sciere facias* is returnable, shall, on motion of the plaintiff or bail, order and direct that such principal be retianed where he shall be a prisoner, until the plaintiff's judgment and costs be satisfied; or he, or she otherwise discharged by due course of law; a copy of which order being served on the keeper of such prison, before such prisoner's releasement, shall be sufficient authority for him to retain such prisoner, until such order be complied with, and shall be deemed a surrender of the principal, and a discharge of the bail.

Proceedings againſt bail.

CHAP. VII.

AN ACT *directing the method of proceeding in Courts of Common Law and Equity, against absconding debtors, and other absent defendants.*

PROCEEDINGS WHERE THE SHERIFF RETURNS THAT THE DEFENDANT IS NOT FOUND.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, and it is hereby enacted by the authority of the same,* That when any writ shall issue from any of the courts of this territory, whereby any sheriff or other officer shall be commanded to take the body of any person to answer to any civil action in any of the said courts ; and the sheriff shall return, that the defendant is not to be found within his county, the plaintiff may at his election sue out an attachment against the personal estate of such defendant, or an *alias*, or *pluries capias*, returnable in the same manner as original process. And if the sheriff shall return any goods by him attached, and the defendant shall fail to appear and plead within the time herein directed, the plaintiff shall be entitled, if in an action of debt, to final judgment ; and if in an action on the case, to an interlocutory judgment ; and may execute a writ of enquiry the next succeeding term. And the goods so attached, if not replevied or sold, according to the rules hereinafter prescribed for goods taken on original attachments, shall remain in the custody of the sheriff until final judgment : and then be disposed of in the same manner as goods taken by execution on a writ of *fieri facias*. And if the judgment shall not be satisfied by the goods attached, the plaintiff may have execution for the residue.

PROCEEDINGS AGAINST ABSCONDING DEBTORS.

Sec. 2. *And be it further enacted*, That if any complaint be made upon oath, to any of the territorial judges, or to any justice of the county courts, by any person or persons, his, her, or their attorney, agent or factor, that any person hath removed, or is removing him or herself, out of the county privately ; or so absconds or conceals him or herself, that the ordinary process of law cannot be served on such debtor. And if such plaintiff, his or her attorney, agent or factor, shall swear to the amount of his or her debt or demand, to the best of his or her knowledge and belief, after deducting all off-sets and discounts, due to the defendant, and shall produce a regular statement of his account current or demand and swear to the same: it shall be lawful for such judge or justice, and he is hereby empowered and required to grant an attachment against the estate of such debtor, wherever the same may be found, or in the hands of any person or persons, indebted to, or having any of the effects of the defendant, or so much thereof as shall be of value sufficient to satisfy the debt or demand, and costs of such complaint: which attachment shall be returned to the court where the suit is cognizable, and shall be deemed the leading process in such action. And the same proceedings shall be had thereon as on judicial attachments.

WHO IS DEFENDANT AND WHO GARNISHEE.

Sec. 3. *And be it further enacted*, That the person or persons whose goods or effects are so attached, shall be called the defendant in the attachment; and the person in whose hands or possession the same goods or effects are so attached, shall be called the garnishee, and shall be obliged to appear in court at the return of the attachment, and answer what shall be objected against him, and abide the judgment of court; and shall be allowed out of the effects attached, reasonable satisfaction for his attendance.

MODE OF EXECUTING A WRIT OF ATTACHMENT.

Sec. 4. *And be it further enacted*, That the manner of executing writs shall be by the officers going to the house, or to the person in whose hands or possession the defendant's goods or effects are supposed to be; and then and there declare, in the presence of one or more credible persons of the neighborhood, that he attacheth the same goods or other effects. From and after which declaration, the goods, money, or effects so attached shall remain in the officer's power, and be by him secured, in order to answer and abide the judgment of court in that case, unless the garnishee will give security for the same.

BOND TO BE TAKEN FROM THE PLAINTIFF.

Sec. 5. *And be it further enacted,* That every judge or justice, before granting any original attachment, shall take bond and security from the party for whom the same shall be issued; his or her attorney, agent or factor, payable to the defendant, in double the sum for which the complaint shall be made, conditioned for satisfying all costs which shall be awarded to such defendant, in case the plaintiff shall be cast in suit: and also all damages, which shall be recovered against the plaintiff in any such suit or suits, which may be brought against him for wrongfully suing out such attachment; which bond, together with the affidavit of the party complaining, subscribed with his proper name, shall be returned by the justice, taking the same to the court, to which the attachment is returnable. Every attachment issued without bond and affidavit, taken and returned as aforesaid, shall be abated on the plea of the defendant.

COUNTY COURT JUSTICES MAY GRANT ATTACHMENTS.

Sec. 6. And for the ease and convenience of creditors, and others, who may be injured as aforesaid, *Be it enacted,* That it shall and may be lawful for any justice of the county courts, upon complaint made to him by any person, or persons, as aforesaid, to issue attachments under the rules and regulations before mentioned; and make the same returnable to any of the said courts, where the same is cognizable.

PROCEEDINGS IN THE CASE OF DEBTORS, NOT RESIDING IN THE TERRITORY.

Sec. 7. *And be it further enacted*, That when any person, who shall be an inhabitant of any other government, so that he cannot personally be served with process, shall be indebted to any person, a resident of this territory, and hath any estate within the same; any of the said judges or justices may grant an attachment against the estate of such foreign person, under the rules, restrictions, and regulations before mentioned; and the same proceedings may be had thereon.

And if such inhabitant of any other government have no goods nor chattels within this territory, but have lands within it; the sheriff shall execute such attachment upon his lands and tenements, agreeably to the provisions of the act concerning executions.

And in case of the death of any debtor, residing out of the limits of this territory, having lands, or other property therein, the creditor resident within the territory, shall in like manner, be entitled to recover by attachment, against the executors and administrators: and execution shall issue accordingly against the property so left within the government.

PROCEEDINGS AGAINST JOINT DEBTORS.

Sec. 8. *And be it further enacted*, That when two or more persons, not residing in this territory, are jointly indebted; either as joint obligors, partners, or otherwise; then the writ, or writs of attachment shall and may be issued against the separate and joint estate of such joint debtors, or any of them; either by their proper names; or by, or in the name or style of the partnership; or by whatever other name or names such joint debtors shall be generally reputed, known or distinguished within this territory; or against the heirs, executors or administrators of them, or either or any of them. And the lands, tenements, goods, chattels and effects, rights and credits of such debtors, or either or any of them, shall be liable to be seized and taken, for the satisfaction of any just debt or other demand; and may be sold to satisfy the same.

PROCEEDINGS AGAINST NON-RESIDENTS' ESTATES MAY BE STAYED.

Sec. 9. *And be it further enacted*, That in all suits, commenced or prosecuted by attachment, against the estate of persons residing out of this territory, the court to which the same shall be brought, shall stay all proceedings in such suit for so long time as they may think necessary; not less than six months, nor exceeding one year, from the time of the return of such process. And when it can be conveniently done, notice shall issue from the court to the defendant, by post or other conveyance; to be inserted in the public papers of one or more of the states. And if the defendant appear, put in bail, and plead within the time limited for his or her appearance in such case, his estate so attached, shall be liberated; and the garnishee or garnishees, if any, discharged. And it shall be lawful for the jury, in case of such non-residents, who shall be notified as aforesaid, to give in damages, legal interest upon the plaintiff's recovery, during the time of such extraordinary continuances.

FORM OF ATTACHMENT AND BOND.

Sec. 10. And to prevent errors in issuing attachments and taking bonds thereupon, *Be it enacted*, That the attachment shall be in the following form, viz:—

"MISSISSIPPI TERRITORY,

"*To the Sheriff of* *County*, Greeting:

"Whereas A. B. (or A. B. attorney, agent, or factor, as the case may be, of C. D.) hath complained on oath, to esq. judge of the court of (or justice of the county court of) that E. F. is justly indebted to him (or to the said A. B.) to the amount of : and oath having been also made, that the said E. F. hath removed, or is about to remove himself out of your county; or so absconds or conceals himself, that the ordinary process of law cannot be served upon him, (or is an inhabitant of another government, if the case is so) and the said having given bond and security, according to the directions of the act in such cases made and provided.—We therefore command you, that you attach the estate of the said E. F. if to be found in your county; or so much thereof, (repleviable or security) as shall be of value sufficient to satisfy the said debt and costs, according to the complaint: and such estate so attached, in your hands to secure, or so to provide, that the same may be liable to further proceedings thereupon; to be had at the court, to be held for ——, at ——, upon the — day of —— next; so as to compel the said E. F. to appear and answer the above complaint of the said ——; when and where you shall make known to the said court how you have executed this writ. Witness , esquire, judge or justice of the said court, at , the day of , in the year of our Lord , and of American independence the ."

Which attachment shall be signed and sealed by the judge or justice, granting the same. And the bond to be given on obtaining such attachment, shall be in the following form, viz:—

"Know all men by these presents, that we and all of the county of (as the case may be) are held and firmly bound unto , in the sum of , to be paid to said , his certain attorney, executors, administrators, or assigns. For which payment, well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors or administrators, jointly and severally, firmly by these presents; sealed with our seals, and dated the day of in the year of our Lord .

The condition of the obligation is such, that whereas the above bounden hath the day of the date hereof prayed an attachment at the suit of , against the estate of the above named , for the sum of ; and hath obtained the same; returnable to the court of , to be held at , on the day of next. Now if the said shall prosecute his said suit with effect, or in case he fail therein, shall well and truly pay and satisfy to the said all such costs and damages as shall be awarded and recovered against the said , his heirs, executors or administrators, in any suit or suits which may be hereafter brought, for wrongfully suing out the said attachment: then the above obligation to be void; otherwise to remain in full force and effect."

Provided nevertheless, That no attachment shall be abated for want of form, if the essential matters expressed in the foregoing precedent be set forth in such attachment.

PROPERTY LIABLE TO IMMEDIATE WASTE MAY BE SOLD.

Sec. 11. *And be it further enacted*, That when any estate attached, shall by three justices of the county court, to be summoned by the sheriff for that purpose, be certified on oath to be in danger of immediate waste and decay, and if the person or persons to whom it belongs, his, her, or their attorney, agent or factor, shall not within twenty days after serving such attachment, replevy the same, then such estate shall be sold at public vendue, by the sheriff or other officer; he having first advertised such sale at the court-house, and other public places in his county, at least ten days before the sale. And the money arising by such sale, shall be liable to the judgment obtained upon such attachment, and deposited in the hands of the clerk of the court, to which the process shall be returnable, there to wait the event of such judgment.

GARNISHEES TO BE SUMMONED AND EXAMINED.

Sec. 12. *And be it further enacted*, That when the sheriff or other officer shall serve an attachment in the hands of any person or persons, supposed to be indebted to, or supposed to have any of the effects of the party absconding or residing out of this government; he shall at the same time, summons such person or persons, as a garnishee or garnishees in writing; to appear at the court to which the attachment shall be returnable, within the first four days of the first term thereof, there to answer upon oath, what he or she is indebted to the defendant; and what effects of the defendant he or she hath in his or her hands; and had at the time of serving such attachments; what effects or debts of the defendant there are in the hands of any other, and what person, to his or her knowledge or belief.

And where any attachment shall be served in the hands of any garnishee in manner aforesaid, it shall be lawful, upon his or her appearance, and examination, to enter up judgment, and award execution against any such garnishee, for all sums of money due to the defendant, from him or her ; and for all effects and estate of any kind, belonging to the defendant, in his or her possession or custody, for the use of the plaintiff: or so much thereof as shall be sufficient to satisfy the debt and costs, and all charges incident in levying the same : and all goods and effects whatsoever, in the hands of any garnishee or garnishees, belonging to any defendant, shall be liable to satisfy the plaintiff's judgment, and shall be delivered to the sheriff or other officer, serving the attachment.

PROCEEDINGS FOR CONTEMPT IN A GARNISHEE.

Sec. 13. *And be it further enacted*, That where any garnishee shall be returned by the sheriff or other officer, summoned in manner aforesaid, and shall fail to appear and discover on oath, as by this act is directed, it shall be lawful for the court, after solemnly calling the garnishee; and such court is hereby authorised and required, to enter a conditional judgment against such garnishee, and upon such so entered, a *scire facias* shall issue against such garnishee, returnable the next term, to shew cause, if any he hath, why final judgment should not be entered against him. And upon such *scire facias* being duly executed and returned, if such garnishee shall fail to appear at the next term, and discover on oath, in manner aforesaid, the court shall confirm such judgment, and award execution for the plaintiff's whole judgment and cost; and if upon the examination of any garnishee, it shall appear to the court, that there is any of the defendant's estate in the hands of any person or persons, who have not been summoned; such court shall upon motion of the plaintiff, grant a judicial attachment, to be levied in the hands of such person or persons having any of the estate of the defendant in his, her or their custody or possession ; who shall appear, and answer and be liable as other garnishees.

ESTATE REPLEVIABLE....JUDICIAL PROCESS AGAINST ABSENTEES LIMITED.

Sec. 14. *And be it further enacted*, That it shall be lawful for any person against whose estate any attachment hath issued as aforesaid, his or her attorney, agent or factor, at any time before final judgment entered, or writ of enquiry executed, upon giving special bail to replevy the estate so attached, and plead to issue, so that the plaintiff is not thereby delayed of his trial: *Provided always*, That no judicial process shall be issued against the estate of any person residing out of the limits of this territory, unless such process is grounded on an original attachment; or unless the leading process in the suit has been executed on the person of the defendant when within the territory.

BOND BY THE PLAINTIFF AFTER JUDGMENT AND BEFORE SALE ON EXECUTION.

Sec. 15. *And be it further enacted*, That after judgment obtained by the plaintiff upon any attachment against non-residents, the plaintiff shall, before sales, and after execution is awarded, find security; who shall undertake for the plaintiff—That if the defendant in the attachment shall, within a year and a day next following, by himself or attorney, come into court, and disprove or avoid the debt recovered by the plaintiff against him, or shall discharge the same with costs, that then the plaintiff shall restore to the defendant, the goods or effects, or value thereof, by the plaintiff, attached and condemned: or so much thereof as shall be disproved or discharged; or else they shall, and will do it for him.*

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* Regulations with regard to attachments for debt, recoverable before a ſingle magiſtrate, will be found in the act for the eaſy and ſpeedy recovery of ſmall debts.

PROCEEDINGS AGAINST ABSENT DEFENDANTS, IN EQUITY.

Sec. 16. *And be it further enacted*, That if the defendant in any suit in equity, against whom *subpœna* or other process may issue, shall not cause an appearance to be entered within such time, and in such manner, as by the rules of the court the same ought to have been entered, in case such *subpœna* or other process had been duly served, and affidavit being made, that such defendant resides beyond the limits of the territory; or that upon enquiry at his usual place of abode, he could not be found so as to be served with such process; and that there is just cause to believe that such defendant is gone out of the limits of the territory, or otherwise absconded, to avoid being served with such *subpœna*, or other process; then in either case, the court may make an order directing such defendant to appear at a certain day therein named. A copy of which order shall be published within forty days thereafter, in some gazette, regularly published in this territory: for such space of time as the court shall direct: and shall within the time aforesaid be posted up at the door of the court-house, where made.—And said court may at their discretion, direct such order to be published in any gazette in the United States; and for such space of time as they may deem reasonable. And if the defendant do not appear within the time limited by such order; or within such further time as the court shall appoint; then, on due proof of publication as aforesaid, the court may order the plaintiff's bill to be taken *pro confesso*, and make decree thereon, and carry such decree into full effect as in other cases. *Provided*, that proceedings in equity against absent defendants, and decrees made on such proceedings, shall be subject to the restrictions, limitations and provisos hereinafter mentioned.

BOND TO BE GIVEN ON OBTAINING A DECREE AGAINST AN ABSENT DEFENDANT.

Sec. 17. *And be it further enacted*, That the complainant shall, before obtaining any decree, by virtue of the foregoing section of this act, give good and sufficient security, in such sum as the court may direct; to abide such order, touching the restitution of the estate or effects, to be affected by such decree as the court may make concerning the same, on the appearance and petition of the defendant, to have said cause re-heard. And if any decree shall be made in pursuance of this act, against a person residing beyond the limits of the territory, at the time of pronouncing such decree—and such person shall within two years after making the same, reside within the territory, or become publicly visible therein: then such defendant shall be served with a copy of such decree in a reasonable time, after such residence or public appearance shall be known to the complainant; and in case such defendant depart this life within two years after making such decree; and before the service of such copy, then if the heir of such defendant shall have any real estate, whereof possession shall have been given to the complainant, and such heir may be found; or if such heir be a *feme covert*, infant or person *non compos mentis*, the husband or guardian of such heir, or if the personal estate of such defendant shall have been levied on, or possession thereof given to the complainant, then the executor or administrator, if any such there be, shall be served with a copy of such decree, within a reasonable time after the death of the defendant, and his heirs, executors or administrators, in this territory shall be known to the complainant.

WHEN SUCH DECREE BECOMES ABSOLUTE.

Sec. 18. *And be it further enacted*, That if any person, or persons, served with a copy of such decree, shall not within twelve months thereafter, appear and petition to have the cause re-heard, such decree made as aforesaid, shall stand absolutely confirmed against the person or persons served with a copy as aforesaid, his, her, or their heirs, executors or administrators, and all persons claiming under him, her or them, by virtue of any act, done after the commencement of the suit.

Sec. 19. *And be it further enacted*, That if any person served with a copy of such decree as aforesaid, shall, within twelve months thereafter; or if any person, not so served, shall within three years after pronouncing such decree, appear and petition to be heard, touching the matter of such decree, and pay the costs of suit; such person or persons, his, her, or their representative, or any person claiming under him, her, or them, by virtue of any act done before the commencement of the suit, may be admitted to answer the bill, and such proceedings had as if no decree had passed.

Sec. 20. *And be it further enacted*, That if any person or persons, against whom such decree shall be made, his, her or their heirs, executors or administrators, shall not within three years next after making such decree, appear and petition to have such cause reheard, and pay costs of suit as aforesaid: such decree made as aforesaid, shall stand absolutely confirmed against the defendant or defendants, his, her, or their heirs, executors and administrators; and against all persons claiming or to claim by, from or under him, her or them; or any of them, by virtue of any act, done, or to be done, subsequent to the commencement of such suit: *Provided*, This act shall not be so construed as to authorise proceedings against persons residing out of the territory; unless the ground or cause of action, or the transaction, on which the bill may be brought, took place within the territory.

CHAP. VIII.

AN ACT *for the easy and speedy recovery of small Debts.*

Juſtice to iſſue a summons, capias or attachment.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That upon complaint made to any justice of the county court or justice of the peace, in any county, against any person, for any debt or demand, not exceeding the value of twenty dollars, such justice is hereby authorised and required to issue his warrant in the nature of a summons, *capias* or attachment (as the case may require) directed to any constable of the county in which such justice is assigned to keep the peace, and in which the defendant resides, commanding such constable to bring the defendant, or cause him to appear before the justice issuing such warrant, at the time and in manner following, that is to say, in case of a process in the nature of a *capias*, forthwith after service thereof, but in case of a summons, to summons the defendant to appear before said justice at a certain time and place therein mentioned, not less than three nor exceeding nine days from the time of issuing such summons:

where defendant reſides,

when returnable.

To give judgment; and examine parties on oath.

Sec. 2. *And be it further enacted,* That at the time and place of hearing such cause, said justice, after hearing the proofs and allegations of the parties, shall give judgment accordingly to the merits and right of the cause; on the hearing of which said justice may examine the parties, plaintiff or defendant, on oath, touching the debt or demand in controversy, the payment or discharge thereof, and the manner the same became due, which oath said justice is hereby empowered to administer: and if any party, plaintiff or defendant, shall swear false on his or her examination before such justice, he or she so offending, shall be deemed guilty of wilful and corrupt perjury, and on conviction thereof be punished accordingly.

Penalty for ſwearing falſe

Sec. 3. *And be it further enacted*, That if the defendant do not appear at the time and place appointed in any summons issued as aforesaid, and oath or affirmation being made by the constable that said summons was served on the defendant by reading the same in his or her presence and hearing, or by leaving with such defendant a true copy thereof, at least two days previous to the time therein appointed for such appearance, then the justice who issued said summons may either then or on such future day (to which he may adjourn or continue said cause) hear and determine the same in the absence of the defendant and grant judgment and execution thereon.

Rules of proceeding in caſe of ſummons.

Sec. 4. *And be it further enacted*, That when the process shall be required to be in the nature of an attachment, the justice before issuing the same, shall take the affidavit of the plaintiff, or some other credible person, of the amount of the debt or demand, and that the defendant so absconds or secrets himself that the ordinary process of law cannot be served upon him, and also a bond to the defendant, with sufficient security, in the penal sum of double the debt or demand sworn to, conditioned that the plaintiff shall prosecute his suit to effect, and pay to the defendant all such damages as he, by any suit to be commenced within twelve months thereafter, shall make appear he hath sustained by the wrongful suing out of such attachment; and such attachment may be levied on the defendant's goods and

In caſe of attachment.

chattels, and any person may be summoned thereon to appear as garnishee before said justice at a certain time and place, not less than five nor more than ten days from the time of summoning such garnishee, to answer on oath what he or she was indebted to the defendant, and what effects of said defendant, he or she had in his or her hands or possession at that time; and on appearance of such garnishee, judgment shall be entered against him or her for the sum disclosed to be due, or effects in his or her hands; and if such garnishee fails to appear and disclose, on oath as aforesaid, judgment may be entered against him or her, conditionally, and a citation issue for him or her, to shew cause, at a certain time and place, not less than five nor more than ten days thereafter, why such judgment should not be confirmed, and on a second default, the same judgment shall be confirmed against such garnishee for the amount of the plaintiff's debt or demand, and judgment entered against said garnishee, in either case, shall be subject to the recovery of the plaintiff in the suit, and the justice issuing such attachment shall, after the expiration of thirty days from the time of issuing the same, (within which time the defendant, if he appears, may defend the suit) proceed to hear the plaintiff's allegations and proofs, and give judgment for the sum due, and issue execution against the defendant's goods, chattels and effects, attached or in the hands of any garnishee, or against the garnishee for the sum disclosed to be due from him, or amount of the plaintiff's judgment, as the case may be.

Coſts of ſuit allowed, and

Sec. 5. *And be it further enacted*, That the party against whom judgment is entered (excepting garnishees) and the plaintiff, in case of non-suit shall pay costs; and the justice before whom any cause may be depending, is empowered to issue *subpœnas* for witnesses at the instance of either party; and commissions to take the depositions of witnesses resident out of his county, and depositions taken by virtue of such commissions on such notice to the adverse party, of the time and place of taking the same, as the justice shall direct shall be read in evidence, and the justices shall cause fair entries to be made in the books to be by them provided for that purpose, of the names of the plaintiff and defendant in any suit brought before them with the debt and costs adjudged and the time when such judgment was given, and any justice giving judgment as aforesaid, may issue execution thereon, directed to any constable in his county, by virtue of which the defendant's goods and chattels shall be taken and sold to satisfy the debt and costs, and for want of goods and chattels the defendant's body shall be taken by virtue of such execution, and conveyed to the common gaol of the county, and the sheriff or keeper thereof is hereby authorized and required to retain the defendant so taken in execution and him or her safely keep till the debt and costs be satisfied, or such prisoner be otherwise lawfully discharged.

ſubpœnas for witneſſes and commiſſions to take depoſitions, to be read in evidence.

Juſtices to make entries of their proceedings.

To iſſue executions,

Proceedings thereon.

Sec. 6. *And be it further enacted*, That if any person shall conceive him or herself aggrieved by the judgment of any justice when such judgment including costs amounts to ten dollars, or upwards the person so aggrieved may at any time of the day of rendering such judgment, pray and obtain an appeal to the next county court of the proper county, where the cause shall be tried *denovo* by the court in a summary way, without jury and judgment given according to the right of the case, and execution awarded; and from the judgment therein of said county court no appeal shall be allowed: *Provided*, That any person appealing from the judgment of a justice shall, before obtaining such appeal enter into a recognizance, with sufficient security, in dou-

Appeal.

ble the amount of the debt or damages sued for; conditioned that the appellant shall prosecute his appeal to effect, and perform the judgment, sentence, or decree the county court may render therein, and such recognizance shall be filed with the transcript of the judgment in the office of the clerk of the county court, and judgment entered in said court against the surety at the time of entering the same against the principal.

Reſpite of execution.

Sec. 7. *Be it further enacted*, That execution on any judgment rendered by a justice against a defendant for any sum not exceeding ten dollars may be respited twenty days, and for any sum exceeding ten dollars forty days: *Provided*, That the defendant before obtaining such respite of execution, shall enter into a recognizance before said justice on the day of rendering judgment, with sufficient security, conditioned that the defendant shall pay the amount of the judgment and costs within the time limited, or render himself a prisoner in execution in discharge thereof, and on condition broken of such recognizance the justice may issue his summons for the party to appear and shew cause why judgment should not be entered against such security; which judgment such justice is empowered to grant, if it appears that the condition of said recognizance be broken, and award an execution, and no appeal, stay, or respite of execution shall be had in such case.

Penalty on a witneſs neglecting to appear,

How recoverable.

Sec. 8. *And be it further enacted*, That if any person summoned to appear as a witness in any cause before a justice of the peace shall neglect to attend and give testimony, may be called out on the *subpœna* before such justice, and a forfeiture of twenty dollars entered against such defaulting witness, conditionally however, to be confirmed if such witness do not render a sufficient excuse before said justice for his non attendance, on or before the return of a summons, to shew cause at a certain time and place not less than five nor more than ten days from the time of serving the same, and judgment for such forfeiture may be confirmed by said justice, one half to the use of the county and the other half to the use of the person at whose instance the *subpœna* issued.

Juſtices not to take cognizance of certain matters.

Sec. 9. *And be it further enacted*, That nothing in this act shall be so construed as to authorize any justice to take cognizance of any action for slander, assault and battery, or imprisonment, actions of replevin, or on real contracts, or such actions wherein the title of lands may in any wise come in question.

Repealing clauſe.

Sec. 10. *And be it further enacted*, That an act entitled " A law for the easy and speedy recovery of small debts," passed by the governor and judges the seventeenth day of April, seventeen hundred and ninety-nine, be, and the same is hereby repealed.

(Approved February the 1ſt, 1805.)

CHAP. IX.

AN ACT *concerning Witnesses.*

MODE OF SUMMONING WITNESSES.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That for taking the testimony of witnesses, in all causes, which may be depending in any of the courts of this territory, the following rules shall be observed and put in practice: to wit—In all suits where witnesses are to appear at any of the said courts, the clerk, at the request of the party, shall issue a *subpœna*, directed to the sheriff or other officer of the county where such witness or witnesses are said to reside: mentioning the time and place for his, her, or their appearance; the names of the parties to the suit wherein the testimony is to be given; and the party at whose instance such witness or witnesses is or are summoned.

Every *subpœna* made returnable immediately, shall be issued only in term time, and shall be personally served on the witness or witnesses, therein named.

A copy of every *subpœna*, issued by the clerk in the vacation, in case the witness or witnesses therein named, is, or are not to be found, may be left at their usual places of residence: and such copy certified by the sheriff or other officer, left as aforesaid, shall be deemed a legal summons; and the person or persons therein named, shall be bound to appear in the same manner as if personally summoned.

DUTY OF ATTENDANCE.

Sec. 2. *And be it further enacted*, That every witness, being summoned to appear at any of the said courts, in manner as herein before directed, shall appear accordingly, and continue to attend from term to term, until discharged by the court, or the party, at whose instance such witness shall be summoned—And if it shall so happen, that the suit so depending, shall in the vacation be accommodated and settled by the parties; and the party at whose instance such witness was summoned, shall neglect or omit to discharge him or her from further attendance: and he or she for want of such discharge, shall attend at the next term: then and in that case, the witness, upon oath made of the facts, shall be entitled to a ticket from the clerk in the same manner as other witnesses: and shall receive from the party, at whose instance he was summoned, the same allowance, which by this act is given to witnesses for their attendance at the said court, with costs.

PENALTY FOR NOT ATTENDING.

Sec. 3. *And be it further enacted*, That if any person, duly summoned as a witness, shall fail to appear and attend as herein required, he shall pay to the party at whose instance the *subpœna* issued, the sum of one hundred dollars: to be recovered by *scire facias*, with cost: and shall be further liable to the action of such party for the full damages which may be sustained for want of such witness' testimony: *Provided always*, That if sufficient cause be shewn by the person so summoned and failing to appear, of his or her incapacity to attend at the time and place mentioned in the *subpœna*, then no forfeiture or penalty shall be incurred by such failure.

Sec. 4. *And be it further enacted*, That every witness being summoned to appear in any of said courts on a criminal prosecution, or plea of the territory, shall appear accordingly, and continue to attend from day to day, until discharged by the court, the attorney for the territory, or the party, at whose instance he shall be summoned: and in default thereof shall forfeit and pay the sum of one hundred dollars, for the use of the territory, or the party summoning him; as the case may be: unless, on or before the return of a *scire facias* made known, sufficient cause be shewn for such failure.

Sec. 5. *And be it further enacted*, That if any person, who shall be summoned as a witness in any of the said courts, or before any person appointed to take depositions as aforesaid, shall refuse to give testimony on oath; such person so refusing, shall by the court, or by the commissioners, before whom he or she shall be summoned, be committed to the common prison; there to remain without bail or mainprize, until he or she shall be willing to give testimony in such manner as the law doth or may direct.

PRIVILEGES OF WITNESSES.

Sec. 6. *And be it further enacted*, That during the attendance of any person, summoned to attend as a witness in any court whatsoever, and during the time that such person is going to, and returning from the place of such attendance; allowing one day for every twenty-five miles such witness has to travel from, and return to his place of residence, no sheriff or other officer shall serve or execute on any person so attending, going to, or returning from such court, any writ or process, warrant, order, judgment or decree in any cause (summons for witness excepted): and if any such be executed, the service thereof shall be, and is hereby declared null and void.

COMPENSATION TO WITNESSES.

Sec. 7. *And be it further enacted*, That for every mile any witness shall travel, either going to, or comeing from the court, to which such witness shall be summoned to appear, there shall be paid to him by the party, at whose instance the *subpœna* shall have issued, four cents per mile, together with the necessary ferriages: and one dollar per day for every day he shall attend, until he shall have given testimony, or shall be discharged: *Provided*; That in any bill of costs, there shall not be allowed the charges of attendance of more than two witnesses to any one matter of fact. And the attendance of the witnesses as to the number of days, shall be ascertained by the oath of the witnesses: to be made at the court at which the cause is determined; or within five days after; before the clerk of the said court; who shall grant certificates of the same, after the termination of the suit: *Provided also*, That if any witness shall hereafter swear falsely, in order to obtain a ticket, he shall, upon conviction, be adjudged guilty of perjury, and suffer as in cases of corrupt and wilful perjury.

Sec. 8. *And be it further enacted*, That all witnesses appearing in behalf of the territory in any criminal prosecution, shall be allowed the same compensation for their daily attendance as is allowed to witnesses attending upon civil prosecutions: and such fees for attendance, together with all costs of the prosecution, shall be paid by the defendant upon conviction—And if the terrritory shall fail upon the prosecution of any offence of an inferior nature, the court may, at their discretion, order the costs to be paid by the prosecutor,in case such prosecution shall appear to have been frivolous or malicious; and in case the defendant shall not be able to pay costs, or the court shall not think fit to order the prosecutor to pay the same; that then, and in that case, the clerk of the court, wherein the matter may have been pending, shall grant a certificate of attendance for the witnesses of the territory, in manner as tickets are granted to jurors; and such tickets may be received by the sheriffs in payment of public dues.

Sec. 9. *And be it further enacted*, That all negroes, mulattoes, Indians, and all persons of mixed blood, descended from negro, or Indian ancestors, to the third generation, inclusive; though one ancestor of each generation may have been a white person; whether bond or free, shall be taken and deemed to be incapable in law,to be witnesses in any case whatsoever, except for and against each other.

Sec. 10. *And be it further enacted*, That the liberty of giving testimony by way of solemn affirmation shall be admitted in all cases whatsoever, criminal as well as civil.

DEPOSITIONS OF ABSENT OR INFIRM WITNESSES.

Sec. 11. *And be it further enacted*, That when a person, who may be a witness in any cause in any of the said courts, shall reside out of this territory; or shall by reason of age or bodily infirmity, or any other cause, be incapable of attending, to give his or her testimony in court; oath thereof being made to any judge, justice, or clerk of the court, wherein such suit is depending, such judge, justice or clerk is hereby empowered to issue or order the clerk of the court, wherein such cause is depending, to issue a commission to one or more persons, to take and receive the deposition of such witness: which being duly taken and returned, as herein after directed, shall be received as legal testimony. *Provided also*, That the party praying such commission, shall give such notice to the adverse party of the time and place, when and where such commission is to be executed, as the court, judge, justice or clerk shall think proper; and the adverse party shall have liberty to cross-examine any witness, whose deposition shall be so taken.

OF WITNESSES ABOUT TO LEAVE THE TERRITORY.

Sec. 12. *And be it further enacted*, That if any person, who may be a witness in any cause, depending in any of the said courts, shall be under the necessity of leaving this territory before such cause is to be tried, or even before it be at issue, upon oath thereof being made before any judge or justice of the court, wherein the cause is depending: such judge or justice is hereby empowered to take the deposition of such witness, provided it shall appear by the oath of an indifferent person that sufficient notice of the time and place of such application has been given to the opposite party; or such judge or justice may order the clerk of the court, wherein such cause is depending, to issue a commission to one or more persons, to take the deposition of such witness: such notice being first given to the adverse party of the time and place, when and where such deposition is to be taken; as the judge or justice, awarding such commission, shall direct; which deposition, when returned, taken in manner aforesaid, shall be received as legal evidence.

TESTIMONY MAY BE TAKEN BY INTERROGATORIES.

Sec. 13. *And be it further enacted*, That in any case, depending as aforesaid, either party wishing to improve the testimony of witnesses absent from the territory, may take the same by interrogatories, the party making oath before any one of the judges, justices, or clerk of the court, where such cause is depending, of the absence of such witness; and that he believes his testimony material; such judge, justice or clerk may, if the oath be taken before the clerk, issue, or if it be taken before a judge or justice may order the clerk of the court, in which such cause is depending, to issue a commission as aforesaid, directing the commissioner or commissioners to call the witness or witnesses, before him or them, at a time and place, by him or them to be appointed. But the party applying for such *dedimus*, shall file his interrogatories in the clerk's office, and serve the opposite party with a copy thereof; with notice of the day on which such *dedimus* will issue; at least ten days before the same shall issue; in which time the opposite party may file his cross interrogatories; and the interrogatories, and cross interrogatories, if any there be, shall accompany such *dedimus*; and if any deposition taken by interrogatories, shall contain any testimony but the answers to such interrogatories, such surplusage shall not be read in evidence.

Sec. 14. *And be it further enacted*, That all depositions shall be considered as taken *de bene esse*.

CHAP. X.

AN ACT *regulating the mode of summoning Juries, and for other purposes.*

Mode of selecting jurors for the circuit courts,

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That the sheriff of every county in this territory shall furnish to the next circuit court to be held in his county, after the passing of this act, a list of the free-holders and permanent house-holders in his county, and the judge or judges, together with the sheriff, shall in open court select from such list (not excepting justices of the peace) a number of persons best qualified to serve as jurors, not less than three times the number of jurors that such county is hereafter directed to furnish to the courts hereafter mentioned; and the names thus selected, after being entered on the records of said circuit court, shall be put in a box to be kept by the clerk for that purpose: and the sheriff, together with the clerk of said court, shall in open court, at each term of the circuit courts, draw one by one from the jury box, after the names are shaken together by the clerk, the number of jurors required for such county; and the clerk shall issue a *venire facias* for the jurors so drawn, returnable to the next circuit court, who shall be summoned to attend accordingly, at the court for the county to which they belong, according to the command of the said *venire facias*: and the clerk of the superor court for the District of and for the ſuperior court of Waſhington diſtrict.

Washington shall, in the same manner, and under the same limitations and restrictions, issue a *venire facias* to the sheriff of the county of Washington, for the number of jurors which by law are to attend said court; and the said sheriff shall summon the jurors so drawn to attend said court, in the same manner as is prescribed to the sheriffs of the other counties in this territory. And every juror who being summoned as aforesaid, and who shall not attend accordingly, shall be liable to a fine not exceeding twenty dollars, unless a good cause be shewn on or before the return of a *scire facias*, for his non-attendance: *Provided*, Such good cause be shewn by such juror for his non-attendance, the fine imposed shall be remitted without the payment of cost.

Grand Jury.

Sec. 2. *And be it further enacted*, That from the whole number of jurors attending and summoned as aforesaid, shall be drawn by lot a number not less than thirteen, who shall constitute the grand jury for the term of the court to which they are summoned, and the residue shall serve as traverse jurors during such term: *Provided* That traverse jurors, where the title of land is in issue, shall be entirely of free-holders: *Provided also*, That when for challenges or other causes, there shall be a defect of jurors, the sheriff or his deputy shall, by order of the court, return jurors *de talibus circumstantibus*, sufficient to complete the pannel; but if the sheriff be interested, the *tales* shall be returned by such disinterested person as the court shall appoint.

Sec. 3. *And be it further enacted*, That immediately after they have drawn from the jury box, the number of jurors required by this act, the sheriff shall put the names so drawn into another box, to be kept by the clerk of the circuit court for that purpose, where they shall remain till another set of jurors shall be drawn for the court succeeding that for which the first set were returned; and when the whole of said jurors shall be drawn, immediately their names shall be returned to the box from whence they were drawn. And said box shall be furnished at the expence of the territory, and secured with sufficient locks, to which no person but the clerk and sheriff, in executing the *venire*, shall have access, and if the clerk or sheriff put into said box, or either of them, any other name or names than those ordered by the court, or take out any that were selected as jurors by the court, or permit any other person to do the same, except as is herein before directed, or if such clerk or sheriff shall use any fraud, collusion or partiality, in drawing jurors as aforesaid, such clerk or sheriff shall be deemed guilty of a contempt of the court to which the jury is returned, and shall be punished accordingly.

Sec. 4. *And be it further enacted*, That once in every two years, the sheriff of each county shall furnish the circuit court of his county with a new and correct list, which shall be within one month before the sitting of said court to which it may be furnished; and the court, together with the sheriff, shall proceed to a new selection of jurors as on the first list, and shall make a record thereof in the same manner; and put into the jury box all additional names there selected, and take out all such names as are left out of the then selection.

Sec. 5. *And be it further enacted*, That each and every county in this territory shall furnish to the circuit court of their respective counties, the number of thirty-six jurors, at each term thereof.

Sec. 6. *And be it further enacted*, That when any demurrer to evidence, demurrer to the declaration or plea in any cause depending before the several courts in this territory, shall appear frivolous, and intended for delay, it shall be lawful for the court, where the cause is depending, to reject such demurrer or motion and proceed to trial as if the same had not been offered.

Repealing clauſe.

Sec. 7. *And be it further enacted*, That the eighth section of the act entitled "An act establishing certain courts therein named, and regulating judicial proceedings in this territory," approved March 2d, 1805, be and the same is hereby repealed: *Provided*, That nothing in this act contained, shall be so construed as to take away the right of trial by special jury in the District of Washington, as heretofore practised: *Provided further*, That nothing herein contained shall be so construed as to admit or allow a juror serving as a special juror any charge or demand against this territory.

Proviſo.

Trials at bar transferred.

Sec. 8. *And be it further enacted*, That all trials at bar now depending in the supreme court, shall be transferred to the circuit courts of the counties from which the cause was brought or sent up, in the same state in which they now stand, to be there tried and determined in the same manner as other causes are tried and determined in the said circuit courts; and it shall be the duty of the clerk of the said supreme court to deliver to the clerks of the several circuit courts, immediately after the passing of this act, all papers and documents now in his office, relative to the said trials at bar; and the clerks of the said circuit courts are hereby authorised and required to receipt for the same.

When plaintiff reſides out of the territory, attorney to give ſecurity for coſt.

Sec. 9. *And be it further enacted*, That when any process shall issue from any of the courts of this territory, by the directions of any attorney, for any person or persons residing out of this territory, against any person or persons residing within the same, the person or persons suing for such process, or prosecuting such suit, at the return of such process, or at any time thereafter when required, shall upon motion, be ruled to give sufficient security for all cost accruing in such action or suit; and if such attorney shall fail to give such security, being thereto required, the suit shall be in fact dismissed, and execution may issue against such attorney, for all such costs.

County court of Waſhington may adjourn, &c. if juſtices do not attend.

Sec. 10. *And be it further enacted*, That a county court be held in the county of Washington on the first Monday in March next, and that whenever there shall not be a sufficient number of justices present to form a court in the said county at the time prescribed by law, it shall be in the power of such justice or justices as may be present, after waiting one whole day to adjourn the said court to any future day previous to the beginning of the next regular term of the said court, and it shall be the duty of the clerk of said court to advertise the day to which said court is adjourned, at three public places in the county, the court-house being one, and in case of the continued non-attendance of any justice or justices so that no court can still be held, to notify the governor of this territory of the non-attendance of such justice or justices.

Sec. 11. *And be it further enacted*, That the superior court of the district of Washington, may whenever it may be deemed necessary by such court adjourn the same to any day previous to the beginning of the next regular term of the said court; and it shall be the duty of the clerk of said court, to advertise the day to which said court is adjourned, at three public places in the county, the court house being one.

Judges may hold a ſpecial term.

Sec. 12. *And be it further enacted*, That a special session of any circuit or superior court, may be held by order of the judge or judges of the same, whenever it may be necessary for the trial of criminal causes.

Repealing clauſe.

Sec. 13. *And be it further enacted*, That the twenty-second, twenty-third, twenty-fourth, twenty-fifth and twenty-sixth sections of the act entitled "An act to establish certain courts therein named, and regulating judicial proceedings in this territory," be and the same are hereby repealed.

Sec. 14. *And be it further enacted*, That this act shall commence and be in force from and after the passing thereof, except the first, second, third, fourth and fifth sections, which shall commence and be in force from and after the first day of June next.

JOHN ELLIS, *Speaker of the House of Representatives.*
JOSHUA BAKER, *President of the Legislative Council.*

Approved—*February* 6, 1807.
ROBERT WILLIAMS, *Governor of the Mississippi Territory.*

CHAP. XI.

AN ACT *concerning Juries.*

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That the county of Washington shall furnish to each term of the superior court of Washington district, thirty-six jurors.

Sec. 2. *And be it further enacted*, That no person under the age of twenty-one years, or above the age of sixty; nor any person continually sick, or who may be diseased at the time of the summons; or any person who has been convicted of any felony, perjury, forgery, cheat, or conspiracy, or offence, shall be summoned on a jury.

Sec. 3. *And be it further enacted*, That it shall be lawful for the court to fine any *tales*-men, who being present when they are called, do not appear in court; or who after appearance, wilfully withdraw themselves during the same day.

Sec. 4. *And be it further enacted*, That when any special court for the trial of criminal causes is about to be held, it shall be the duty of the clerk of such court, to issue a precept to the sheriff, to return the same number of jurors, as are required for such court at its ordinary session: and the sheriff shall draw them by lot, as in other cases; except that he shall take a part out of each box, proportioned to the number in each box respectively.

Sec. 5. *And be it further enacted*, That whenever a special jury shall be summoned to the superior court of Washington district; every juror so summoned, shall be allowed one dollar for every day he shall attend; and the same travelling expences as are allowed to witnesses; which together with the clerk's and sheriff's fees for issuing the precept and summoning such jury, shall be paid by the party applying for the same; and shall not be allowed upon the taxation of costs.

Sec. 6. *And be it further enacted*, That in all trials between persons residing in this territory and non-residents, one half of the jury shall be residents, and the other half non-residents; if there be so many non-residents within the town or place where the court is held, who are not parties thereto, nor any way interested in the event of such trials. And if there be not so many non-residents near, then so many as are shall be summoned, being disinterested as aforesaid; and the remainder shall be of residents, who are good men, and not suspicious to the one party or to the other; and who are qualified as jurors: *Provided however*, That unless application for a mixed jury be made to the court before a jury is sworn, no advantage shall afterwards be taken of the want of a mixed jury, returned as herein directed.

CHAP. XII.

AN ACT *concerning Executions, and for the relief of Insolvent Debtors.*

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That all persons who have or shall hereafter recover any debt, damages or costs by the judgment of any court of record within this territory, may at their election, prosecute writs of *fieri facias, elegit* and *capias ad satisfaciendum,* within the year for taking the goods, lands, or body of the person or persons against whom such judgment is obtained; in manner following. all such writs shall run in the name of the Mississippi territory of the United States, and bear teste by the clerks of the said courts respectively, shall be returnable to the first day of the next succeeding court, so that there be always at least fifteen days between the teste and return of each of the said writs; *Provided,* That if the plaintiff shall desire an execution to issue returnable at a further day, the clerk shall issue the same accordingly, so as the day of such return be upon a court day, within ninety days next after the teste thereof, and that the forms of the said several writs shall be as follows, *mutatis mutandes*:

A FIERI FACIAS IN DEBT.

"The Mississippi territory of the United States, to the sheriff of   county, greeting: we command you, that of the goods and chattels of A. B. late of your county, you cause to be made the sum of   which C. D. lately in our   court hath recovered against him for debt; also the sum of   , which to the said C. D. in the same court, were adjudged for his damages, as well by reason of the detention of the said debt as for his costs in that behalf expended; whereof the said A. B. is convicted as appears to us of record, and that you have the said before the judges, (or justices, as the case may be) of our said court, on the day of next, to render to the said C. D. of his debt and damages aforesaid; and have then there this writ. Witness, &c."

The same in case, upon a promise—

As before, unto "for his damages which he hath sustained, as well by reason of the non-performance of a certain promise and assumption by the said A. B. to the said C. D. lately made as for his costs by him about his suit in that behalf expended, &c."

IN TRESPASS,

As before, unto "for damages as well by occasion of a certain trespass by the said A. B. to the said C. D. offered as for his costs, &c."

If for the defendant, say—

"For his costs about his defence in a certain action at the suit of the said, &c."

IN COVENANT,

As before, unto "for damages, &c. by reason of a breach of a certain covenant between the said A. B. and C. D. lately made, &c."

THE FORM OF A WRIT OF ELEGIT.

"The Mississippi territory of the United States, to the sheriff of county, greeting: Whereas A.B. at our court, &c. before our judges (or justices) held, hath recovered against C.D. the sum of which to the said plaintiff was adjudged for a certain debt or damages (as before) and the said A B. hath chosen to have delivered to him, all the goods and chattels of the said C. D. saving only the oxen and beasts of his plough, and also a moiety of all his lands and tenements in your county, to have and to hold the goods and chattels aforesaid, as his own proper goods, and the said moiety as his freehold; to him and his assigns, until he shall have levied thereof, the debt and damages aforesaid; therefore we command you, that you cause to be delivered all the goods and chattels of the said C D, saving the oxen and beasts of his plough, and also a moiety of all his lands and tenements in your county, whereof he at the day of obtaining the said judgment was seized, or at any time afterwards, by reasonable price and extent; to have and to hold the said goods and chattels, to him the said A.B. as his own proper goods and chattels, and the said moiety as his freehold, to him and his assigns, until he shall have levied thereof the debt and damages aforesaid; and that you certify our said judges (or justices) under your own seal, and the seals of those by whose oath you shall make this extent and appraisement, how you execute this writ, the day of and have then there this writ."

A CAPIAS AD SATISFACIENDUM.

"The Mississippi territory of the United States, to the sheriff of county, greeting: We command you, that you take A.B. late of said county, if he be found therein; and him safely keep, so that you have his body before the judges (or justices) of our court, &c. the day of next, to satisfy C. D. the sum of which the said C.D. hath recovered against him for debt, also" &c. as before, in case, trespass or covenant, as in the *fieri facias*.

Which said writs, so issued, shall be executed by the sheriff or other officer, to whom the same shall be directed, and shall be returned according to the respective forms hereafter mentioned;

THE RETURN OF A FIERI FACIAS.

"By virtue of this writ, to me directed, I have caused to be made the within mentioned sum of of the goods and chattels of the within named A. B. which said sum of before the judges (or justices) within mentioned, at the day and place within contained, I have ready, as that writ requires." Or;

"The within named A. B. hath no goods or chattels within my county, whereof I can make the sum within mentioned, or any part thereof."

Or;—"By virtue," &c. "I have caused to be made of the goods and chattels of the within named C. D. the sum of in part of the debt and damages within mentioned, and I do further certify that the said A. B. hath no more goods and chattels within my county, whereof, at present, I can make the residue of the said debt and damages, as by the said writ is required."

RETURN OF A WRIT OF ELEGIT.

"Inquisition indented, taken at in the county aforesaid, the day of in the year of our Lord before me E. F. sheriff in the county aforesaid, by virtue of a writ to me directed, and to this inquisition annexed, and by the oaths of A. B. C. &c. good and lawful men of said county, who being charged and sworn, upon their oath do say, that A. B. in the said writ, to this inquisition annexed, named, the day of the caption of this inquisition, was possessed of the goods and chattels following, as of his own proper goods, to wit:— of the price of which I the said sheriff, have caused to be delivered to the said C. D. to hold to him as his own proper goods and chattels, in part of satisfaction of his debt and damages aforesaid, in the said writ mentioned; and further the said jurors, upon their oath do say, that the said A. B. at the time of rendering the judgment aforesaid, was seized in his own demesne, of fee, of and in (here name the houses and lands) with the appurtenances, of the annual value in all the issues beyond reprises, of dollars; acres of which, or thereabouts, are a true and equal moiety of all and singular the lands, tenements and hereditaments whatsoever, in the county aforesaid, of the said A. B. which said moiety, I the said sheriff, the day aforesaid, to C. D. in the said writ named, at a reasonable extent, have delivered, to hold to him and his assigns as his freehold, according to the form of the act in that case made and provided, until he shall have levied the residue of the debt and damages aforesaid, as the writ aforesaid requires: and further the said jurors, upon their oath do say, that the said A. B. at the time of giving the judgment aforesaid, had not, nor at the day of taking this inquisition, hath any other or more goods and chattels, lands or tenements, in the county aforesaid, to the knowledge of the jurors aforesaid: in testimony whereof as well I, the said sheriff, as the jurors aforesaid, to this inquisition, have severally put our seals, the day, year and place above mentioned.

RETURN OF A CAPIAS AD SATISFACIENDUM.

"By virtue of this writ to me directed, I have taken the within named A. B. whose body before the judges (or justices) within named, at the day and place within contained, I have ready to satisfy C. D. of the debt and damages within mentioned.

Or:—"The within named A. B. is not found within my county."

Sec. 2. *And be it further enacted*, That when any execution shall issue, and the party at whose suit the same is issued, shall afterwards desire to take out another writ of execution, at his own proper cost, and charges, the clerk may issue the same, if the first writ be not returned and executed; and where, upon a *capias ad satisfaciendum*, the sheriff shall return that the defendant is not found, the clerk may issue a *fieri facias*, and if upon a *fieri facias*, he shall return that the party hath no goods, or that only part of the debt is levied, in such case it shall be lawful to issue a *capias ad satisfaciendum* upon the same judgment; and where part of a debt shall be levied upon an *elegit*, a new *elegit* shall issue for the residue; and where *nihil* shall be returned, upon any writ of *elegit*, a *capias ad satisfaciendum* or *fieri facias* may issue, and so *vice versa*; and where one judgment is obtained against several defendants, execution thereon shall issue as if it were against one defendant, and not otherwise.

Process in certain cases.

Sec. 3. *And be it further enacted*, That if any tenant by *elegit*, be evicted of his title in the lands, tenements or hereditaments, which he holds by virtue of any extent thereof, by judgment had against him, otherwise than by his own fraud or default, before satisfaction shall be made him for his debt or damages and costs, he shall and may have a writ of *scire facias* against the debtor, his heirs, executors or administrators, and may thereafter sue out such other writ of execution for the residue of his debt or damages and costs, as shall appear to remain unpaid, as if no execution had been theretofore issued.

Remedy in case of eviction.

Sec. 4. *And be it further enacted*, That when any judgment or recognizance shall be extended, the same shall not be avoided or delayed, by occasion that any part of the lands or tenements extendible, are or shall be omitted out of such extent, saving always to the party and parties whose lands shall be extended, his and their heirs, executors and assigns, his and their remedy for contribution against such person and persons, whose lands are or shall be omitted out of such extent, from time to time: *Provided nevertheless*, That this act, or any thing therein contained, shall not be construed to give any extent or contribution against any heir or devisee, within the age of twenty-one years, during such minority of such heir or devisee, for or in respect of any lands to such heir or devisee descended or devised, further or otherwise than might have been made before the making of this act.

In ca e defendant die in jail.

Sec. 5. *And be it furher enacted*, That if any person being in prison, charged in execution, shall happen to die in execution, the party or parties at whose suit or to whom such person shall stand charged in execution for any debt or damages recovered, his or their executors or administrators may, after the death of the person so dying in execution, lawfully sue forth and have new execution against the lands and tenements, goods and chattels, or any of them, of the person so deceased: *Provided always*, That this act shall not extend to give liberty to any person or persons, their executors or administrators, at whose suit any such party shall be and die in execution, to have or take any new execution against any of the lands, tenements or hereditaments of such party dying in execution, which shall at any time after the said judgment or judgments be by him sold in *bona fide*, for the payment of any of his creditors at whose suit he shall be in execution, and the money paid or secured to be paid to any such creditors, with their privity, in discharge of his or their debts, or some part thereof.

Privilege.

Sec. 6. *And be it further enacted*, That if any person taken in execution, be delivered by privilege of either House of Assembly, so soon as such privilege ceaseth, he shall return himself a prisoner in execution, or be liable to an escape.

Debtors removal.

Sec. 7. *And be it further enacted*, That when judgment shall be obtained in any court of record within this territory, for any debt or damages, and the person against whom such judgment shall be obtained, shall remove himself or his effects, or shall reside out of the limits of the jurisdiction of such court, it shall be lawful for the clerk of the court where judgment was given, at the request of the party for whom the same was rendered, to issue any writ of *fieri facias* or *capias ad satisfaciendum*, or any other legal or proper writ of execution or attachment, for the non performance of a decree in chancery (as the case may require) in the form and under the teste herein before prescribed, and to direct the same to the sheriff of any county, or marshal of any corporation within this territory, where the defendant or debtor or his goods shall be found; which said sheriff or other officer to whom the same shall be directed, is hereby empowered and required to serve and execute the same, and shall make return thereof to the court where the judgment was given, in the manner herein before prescribed and directed.

Goods when bound by process.

Sec. 8. *And be it further enacted*, That no writ of *fieri facias*, or other writ of execution shall bind the property of the goods, against which such writ is sued forth, but from the time that such writ shall be delivered to the sheriff, under sheriff, coroner, or other officer, to be executed; and for the better manifestation of the said time, such sheriff, coroner, or other officer, his deputy or agent, shall upon the receipt of any such writ, without fee for doing the same, endorse upon the back thereof, the day of the month and year when he received the same; and if two or more writs shall be delivered against the same person on the same day, that which was first delivered shall be first satisfied. If any sheriff, coroner, or other officer, to whom any execution shall be delivered, shall fail or neglect to endorse thereon, the day of the month and year when he received the same, every such person, for every such failure, shall be liable, on a motion to be made before the court from whence the execution issued, to a penalty not exceeding fifteen per centum, upon the amount of the said execution, if it be for money, and if it be for a specific thing, one hundred dollars, to the use of the party injured, upon giving ten days previous notice of such motion; and shall moreover be liable to the action of the party grieved, for all damages arising from such failure.

Notice of sale.

Sec. 9. *And be it further enacted*, That on all executions which have heretofore issued, or shall hereafter be issued, the sheriff, or other officer, having published notice of the time and place of sale at the door of the court-house of his county, on some court day, and at some public place, near the residence of the debtor, at least ten days before such sale; shall proceed to sell by auction, the goods or chattels so taken, or so much thereof as shall be sufficient to satisfy the judgment or decree, for the best price that can be got for the same: *Provided always*, That if the owner of such goods and chattels shall give sufficient security to such sheriff, or officer, to have the the same goods and chattels forthwith coming at the day of sale, it shall be lawful for the sheriff or officer, to take a bond from such debtor and securities, payable to the creditor, reciting the service of such execution, and the amount of the money due thereon, and with condition to have the goods or chattels forthcoming at the day of the sale appointed by such sheriff, or officer, and shall thereupon suffer the said goods and chattels to remain in the possession, and at the risk of the debtor, until that time; and if the owner of such goods and chattels shall fail to deliver up

Proviso.

the same, according to the condition of the bond, or pay the money mentioned in the execution, such sheriff or officer shall return the bond to the office of the clerk of the court from whence the execution issued, to be there safely kept, and to have the force of a judgment; and thereupon, it shall be lawful for the court where such bond shall be lodged, upon motion of the person to whom the same is payable, his executors or administrators, to award execution for the money therein mentioned, with interest thereon, from the date of the bond till payment and costs; provided the obligors, their executors or administrators, or such of them against whom execution is awarded, have ten days previous notice of such motion; and upon such execution, the sheriff or officer shall not take any security, either to have the goods forthcoming at the day of sale, or for the payment of the money at a future day, but shall levy the same immediately, and keep in his hands the goods and chattels taken thereon, until he shall have sold sufficient thereof, to raise the money mentioned in the execution, or the same be otherwise satisfied; and for the better direction of such officer, the clerk shall endorse upon any such execution, "that no security of any kind is to be taken."

On failure of return.

Sec. 10. *And be it further enacted*, That if any sheriff, or other officer, shall fail to deliver or return any bond taken for the forthcoming of property by virtue of this act, within thirty days after the date thereof to the office of the clerk of the court from whence such execution issued, he shall be liable to the same penalty for every month of such failure, to be recovered in the same manner as is directed by law against a sheriff or coroner failing to return an execution.

Sec. 11. *And be it further enacted*, That when an execution shall issue against the estate of any sheriff, under sheriff, marshal of a corporation, coroner or constable, or their securities, or their heirs, executors or administrators, or either of them, upon a judgment obtained against such sheriff, under sheriff, marshal of a corporation, coroner or constable, or securities, or the heirs, executors or administrators, or either of them, for money recovered by such sheriff, under sheriff, marshal of a corporation, coroner or constable, by virtue of any execution or process levied or executed by him or them, or for any money collected or received by them, in any manner, as sheriff, marshals, coroners or constables; no security for the payment of the money mentioned in such execution, at a future day, or to have the goods forthcoming at the day of sale, shall be taken or received, but the officer taking such estate in execution, shall proceed immediately to the sale thereof, notwithstanding such security be tendered, and for the better direction of such officer, the clerk issuing such execution shall endorse thereon, "That no security of any kind is to be taken."

Execution againſt ſheriffs &c.

Sec. 12. *And be it further enacted*, That no sheriff, or other officer, to whom any writ of *fieri facias* shall be directed, shall take in execution any slave or slaves, unless the debt and cost mentioned in such *fieri facias*, shall amount to the sum of one hundred dollars: *Provided* There be shewn to such sheriff or officer, by the defendant, or any other person, sufficient other goods and chattels, of such defendants, within the county of such sheriff or officer, upon which he may levy the debt and cost mentioned in such *fieri facias*.

Under what reſtrictions, ſheriff may execute ſlaves

Sec. 13. *And be it further enacted*, That where any slave or slaves shall be taken in execution, and sold, the names of such slaves, shall be certified on the back of such execution, and returned to and recorded among the records of the court where such execution shall issue.

Sec. 14. *And be it further enacted*, That if the goods

In caſe goods remain unſold, a venditioni exponas may iſſue.

taken by any sheriff or other officer, or any part thereof, shall remain in his hands unsold, he shall make return accordingly; and thereupon the clerk of the court from whence the execution issued, shall and may, and he is hereby required, to issue a *venditioni exponas* to such sheriff, or other officer directed, whereupon the like proceedings shall be had as might and ought to have been had on the first execution; which writ of *venditioni exponas* shall be in the form following:

Form.

"The Mississippi Territory of the United States, &c. Greeting: we command you, that you expose to sale, those goods and chattels of A. B. to the value of which, according to our command, you have taken, and which remain in your hands, unsold, as you have certified to our judges (or justices) of our court, to satisfy C. D. the sum of whereof in our said court, he hath recovered execution against the said A. B. by virtue of a judgment in the said court, and that you have," &c.

In caſe of ſlaves, &c. being executed.

Sec. 15. *And be it further enacted*, That when any sheriff, or live officer, shall serve any writ of execution on slaves, horses, or other stock, and the same shall not be immediately restored to the debtor, on his executing a forthcoming bond as aforesaid, it shall and may be lawful for such officers, and they are hereby required to provide sufficient sustenance for the support of such slaves or live stock, until such slaves or stock be sold, or otherwise legally discharged from such execution: and upon the return of any execution, the court may and shall, upon the motion of the officer serving the same, settle and adjust what such officer shall be allowed for his expences incurred by supporting such slaves or stock; and the said officer shall and may be allowed to retain the same out of the money arising from the sale of the said slaves or stock.

Sec. 16. *And be it further enacted*, That if any sheriff shall levy an execution on property, and a doubt shall arise, whether the right of such property is in the debtor or not, such sheriff may apply to the plaintiff, his attorney or agent, for his bond with good security, for indemnification for the sale of the property seized, which, if the plaintiff, his attorney or agent, refuses or fails to do within ten days after such application, the sheriff or other officer shall be justified in delivering up such property to the party from whose possession the property was taken.

Doubtful property levied on.

Sec. 17. *And be it further enacted*, That where any forthcoming bond shall be assigned, and execution issued thereon, against the original obligor or obligors, and on such execution there shall be a return by the sheriff or other officer that there were no goods, or not sufficient goods of the obligor or obligors, to make the debt and cost, it shall be lawful for the clerk who issued such execution, to issue a second execution against the assignor or assignors of such bond, for the debt mentioned therein, or such part thereof as shall appear to be still due, on which execution there shall be similar proceedings to those on an execution against the original obligors.

Forthcoming bond.

Sec. 18. *And be it further enacted*, That when any writ of *capias ad satisfaciendum* has been, or shall be levied on any debtor, it shall be lawful for such debtor to tender to the sheriff or other officer, serving the same, slaves or personal property, to the value of the debt and costs, for which such execution has issued or may hereafter issue, which property, the said sheriff or other officer, shall receive and proceed to sell in like manner, as is herein directed, in the case of goods taken in execution upon a writ of *fieri facias*, and shall thereupon discharge such debtor out of custody: *Provided always*, That if

Privilege of debtor.

such property, so tendered, shall not be sufficient to satisfy the debt or damages and costs, or shall be under any lien or incumbrance, so as that the whole cannot be sold, a new *capias ad satisfaciendum* or *fieri facias*, at the option of the plaintiff, shall issue for any balance; and the clerk of the court from which such execution originally issued, shall upon the return of the sheriff of the insufficiency or incumbrance aforesaid, issue a new *capias ad satisfaciendum* or *fieri facias*, if required: but where such property shall have been under any incumbrance, the debtor shall not be at liberty to tender slaves or personal estate on a second *capias ad satisfaciendum* being served, or in case of a *fieri facias* issued in consequence of such return, to avail himself of the privileges of this act.

Sec. 19. *And be it further enacted*, That nothing in this act contained, shall be construed to extend to any proceedings that may be had in consequence of any distress made, or to be made, for any rent reserved and due, or which may hereafter become due, upon any demise, lease or contract whatsoever.

Sale exceeding execution

Sec. 20. *And be it further enacted*, That wheresoever on a sale made under any execution, the amount of such sale shall exceed the principal, interest and cost; the sheriff, or other officer, shall pay such excess or surplus to the debtor, his executors, administrators or agent; and if any sheriff, or other officer, shall fail or refuse to pay such surplus or excess, when required, such sheriff, or other officer, his or their security, or securities, his or their executors, or administrators shall, each and every of them, be liable to the like penalty, and judgment in favor of the said debtor, as is prescribed and directed by law, in favor of the plaintiff, against the sheriff, for not paying the principal, interest and costs, levied on an execution.

Sec. 21. *And be it further enacted*, That when any sheriff, or other officer under any execution, shall receive the whole or any part of the money for which the said execution was issued, and the person against whomsuch execution may have issued, his executors or administrators, shall obtain an injunction to such execution, or any part of the money mentioned therein, before the money received by such sheriff or officer is paid to the plaintiff, his agent or attorney, or his executors or administrators: in every such case, the sheriff, or other officer, his executors or administrators, shall repay the person or persons against whom such execution issued, his or their executors, administrators or agent, the money so received, or such part thereof, as may be enjoined to the person having a right to demand the same; such sheriff, or other officer, and their securities, his and their executors and administrators, and every of them, shall be liable to the like penalty and judgment in favor of the person, his executors or administrators, by whom the said injunction is obtained, as is directed by law, in favor of the plaintiff, against the sheriff, for not paying money levied on an execution. **Injunctions.**

Sec. 22. *And be it further enacted*, That if any person or persons, taken or charged in execution, shall enter into bond with good and sufficient securities, under a reasonable penalty, upon condition that he, or they shall not depart or go out of the rules or bounds of the prison to which he or they shall be committed, it shall be lawful for the sheriff, in whose custody such prisoner shall be, to permit him or them to go out of the prison and return at their pleasure. **Priſon bounds.**

Sec. 23. And for the relief of insolvent debtors, who shall be taken in execution, and to prevent the long imprisonment of unfortunate people, which **Insolvent debtors.**

can be of no benefit, but rather a disadvantage to their creditors:—*Be it further enacted*, That if any person that now is, or shall hereafter be taken, or charged in execution in any suit, commenced or prosecuted in any court of record within this territory, it shall be lawful for any judge or justice of the said court, or of the court of that county or corporation to whose jail such person shall be committed, by warrant under his hand and seal, to command the jailor or keeper of the said prisoner, to bring before the said court if sitting, or if not sitting, in case it be a superior court, before any one judge of the said court, at a certain time and place therein to be appointed, and if an inferior court, before any two justices of said court, at their county court-house, likewise on a certain day to be appointed in such warrant, the body or bodies of such person or persons so in prison as aforesaid, together with a list of the several executions with which he or she shall stand charged in the said jail; which warrant such jailor is hereby required to obey; and ten days notice thereof shall be given to the party or parties, or their executors, administrators or agents, at whose suits such prisoner or prisoners shall be in execution; and every such prisoner coming before the said court, judge or justices, as the case shall be, shall subscribe and deliver in a schedule of his whole estate, and make oath and swear to the effect following, that is to say:—"I, A. B. do, in the presence of Almighty God, solemnly swear (or affirm, as the case may be) that the schedule now delivered and by me subscribed, doth contain, to the best of my knowledge and remembrance, a full, just, true and perfect account and discovery of all the estate, goods and effects, to me, in any ways belonging, and such debts as are to me owing, or to any person in trust for me, and of all securities and contracts whereby any money may hereafter become payable, or any benefit or advantage accrue to me, or to my use, or to any other person or persons, in trust for me; and that I, or any other person or persons, in trust for me, have not land, money, stock, or any other estate, real or personal, in possession, revision or remainder, of the value of the debt or debts with which I am charged in execution; and that I have not directly or indirectly sold, lessened or otherwise disposed of, in trust, or concealed all or any part of my lands, money, goods, stock, debts, securities, contracts or estate, whereby to secure the same, or to receive or expect any profit or advantage therefrom, or to defraud or deceive any creditor or creditors to whom I am indebted, in any wise howsoever. So help me God." Which schedule, being so subscribed in open court, if taken in court, and if not, in the presence of one judge or two justices, shall be returned to the clerk of the court, there to remain for the better information of the creditor; and after delivering in such schedule, and taking such oath, such prisoner shall be discharged by warrant from such court, or from one judge or two justices (as the case may be) which warrant shall be sufficient to indemnify such sheriff or officer, against any escape or escapes, action or actions whatsoever, which shall or may be brought or prosecuted against him or them, by reason thereof; and if any action should be commenced against any sheriff or officer, for performing his duty in pursuance of this act, he may plead the general issue, and give this act in evidence: *Provided always*, That notwithstanding such discharge, it shall be lawful for any creditor or creditors, by judgment, at any time afterwards, to sue out a writ of *scire facias*, to have execution against any lands or tenements, goods or chattels, which such insolvent person shall thereafter acquire, or be possessed of: but no person, delivering in such shedule, and having taken the said oath, shall again be imprisoned on account of any judgment which shall have been obtained against him, previous to the time of taking such oath, unless by virtue of a *capias ad satisfaciendum*, directed to issue by the court in which the said judgment shall have been rendered: *And provided also*, That any person confined within the limits of any prison bounds, shall be entitled to the benefit of this act, in the same manner, and under the same regulations, as those confined in jail; and all bonds given for the keeping of the said prison bounds, shall be null and void, after such prisoner shall be so discharged.

Sheriff to sell property.

Sec. 24. *And be it further enacted*, That all the estate which shall be contained in such schedule and any other estate which may be discovered to belong to the prisoner, for such interest therein as such prisoner hath and may lawfully depart withall, shall be vested in the sheriff of the county, wherein such lands, tenements, goods or chattels shall lie or be found, and such sheriff is hereby authorised, empowered and required, within sixty days after the taking of the said oath, ten days previous notice of the time and place of sale being given, to sell and convey the same to any person or persons whatsoever, for the best price that can be got for the same. and the money arising from such sale, shall be by such sheriff or officer paid to the creditor or creditors, at whose suit such prisoner or prisoners shall be imprisoned, saving to every such prisoner, his or her necessary apparel, utensils of trade and arms for the defence of himself and his country; and if any sheriff or other officer, shall fail to pay the money arising from such sale according to law, he shall be liable to the same penalty, to be recovered in the same manner and by the same persons, as if the said money had been levied by a *fieri facias*.

Property in poſſeſſion of another.

Sec. 25. *And be it further enacted*, That when any insolvent debtor shall be discharged pursuant to this act, and the schedule subscribed and delivered in by such prisoner, shall contain money due to such prisoner, or of goods, chattels or estates, belonging to him and in the possession of another, in that case the clerk of the court, with whom such schedule is directed to remain, shall immediately issue a summons against each of the persons named as debtors in the said schedule and against such others as are therein said to have possession of any goods, chattels or estates of the property of the prisoner, reciting the sum of money he or she is charged with, or the particular goods, chattels or estates, said to be in his possession; and requiring him or her to appear at the next court and declare on oath, whether the said money or any part thereof, be really due to such prisoner; and whether such goods, chattels or estate, be really in his or her possession and are the property of such prisoner; and if the person so summoned, shall fail to attend according to such summons or to shew good cause for his non-attendance, it shall be lawful for the court to enter judgment against every such person for the money, goods, chattels or estates in such schedule mentioned, together with costs of suit, a lawyer's fee excepted, and if any such person so summoned shall appear and be sworn, judgment shall be entered for so much of the money, goods or chattels, or estates, as he or she shall acknowledge to be due, or to be of the property of such prisoner, and in his possession with costs as aforesaid, which judgment shall be entered in the name of the sheriff, who may thereupon proceed to levy the execution as in other cases, and to dispose of the money, goods, chattels, or estates so recovered, in the same manner as the estate contained in the schedule is hereby directed to be disposed of: *Provided always*, That where any such garnishee shall not acknowledge the whole money to be due, or all the goods, chattels, or estates, mentioned in the schedule to be the property of the prisoner, and in his possession, the sheriff, or such prisoner, at any time after, unless barred by any of the acts limiting the time for the commencement of actions, shall be at liberty to claim the residue by legal process, and the former judgment as to such garnishee shall be no further bar in such process than for so much money, or such goods, chattels and estates, as the garnishee is thereby ordered to pay or deliver.

Sheriff's fees.

Sec. 26. *And be it further enacted*, That every sheriff shall be allowed to retain out of the effects of such insolvent debtor, before the distribution thereof, all reasonable expences in recovering such money, goods, chattels and estates as aforesaid, including such a fee to a lawyer for the proceeding against the garnishee, as shall be judged reasonable by the court; and if such effects be not sufficient, he shall be reimbursed such expences by the creditor or creditors, if more than one, in proportion to their demands.

Sec. 27. *And be it further enacted*, That where such insolvent person shall not be able to satisfy or pay his ordinary prison fees, the sheriff or jailor may demand and receive of the party or parties at whose suit such insolvent person shall be imprisoned, all such fees as shall become due, until such creditor shall agree to release such prisoner; and if the creditor, upon notice given to him or her, his or her attorney or agent, shall refuse to give security to the sheriff or jailor, for the payment of such prison fees, or shall fail to pay the same when demanded, such sheriff or jailor shall discharge such debtor out of prison: *Provided nevertheless*, That such insolvent prisoner shall be afterwards liable to the action of the creditor to recover such fees; and such creditor shall and may, notwithstanding his consent to the releasing such prisoner, at any time afterwards sue out a *scire facias* to have a new execution against the lands and tenements, goods and chattels of such prisoner, in case he or she shall afterwards become possessed of any.

Sec. 28. *And be it further enacted*, That when any debtor is in custody on several executions, it shall not be lawful for such debtor to demand any more or other dealing than if he was in custody on one execution only, nor shall any sheriff or jailor demand or receive more than the rate fixed by law, in case of a debtor confined on one execution only, which shall be paid by the creditor at whose suit such debtor was first taken.

Deſtringas.

Sec. 29. *And be it further enacted*, That if a *destringas* issue in detinue, the court for good cause shewn, may direct it to be superseded, so far as it relates to the specific thing, and to be executed for the alternative price or value, only if fixed in the judgment, or if the same shall afterwards be fixed by a writ of enquiry.

Forthcoming bond.

Sec. 30. *And be it further enacted*, That if a forthcoming bond be quashed as faulty, the sheriff taking the same shall be at all times liable for damages to the party injured, or his representatives.

Judgment againſt ſheriff, &c.

Sec. 31. And whereas doubts have arisen in what manner judgment should be rendered against any sheriff, coroner or marshal of a corporation, who shall fail to return an execution to the office from whence it issued, on or before the return day thereof: *Be it further enacted*, That when any writ of execution or attachment for not performing a decree in chancery, shall come into the possession of any sheriff, coroner or marshal of a corporation, and he shall fail to return the same to the office from whence it issued, on or before the return day thereof, it shall be lawful for the court, ten days previous notice being given, upon motion of the party injured, to fine such sheriff, coroner or marshal of a corporation, in any sum not exceeding five dollars per month for every hundred dollars contained in the judgment or decree on which the execution or attachment so by him detained was founded, and so in proportion for any greater or lesser sum, counting the aforesaid months from the return day of the execution or attachment, to the day of rendering judgment for the said fine.

Sheriff, &c. reſponſible.

Sec. 32. *And be it further enacted*, That if any sheriff or other officer, shall make return on any writ of *fieri facias* or *venditioni exponas*, that he hath levied the debt, damages or costs, as in such writ is required, or any part thereof, and shall not immediately pay the same to the party to whom the same is payable, or to his attorney, or shall return upon any writ of *capias ad satisfaciendum*, or attachment for not performing a decree in chancery, for payment of any sum of money (that he hath taken the body or bodies of the defendant or defendants, and hath the same ready to satisfy the money in such writ mentioned) and shall have actually received such money of the defendant or defendants, or have suffered him, her or them to escape with the consent of such sheriff, under-sheriff, or officer, and shall not immediately pay such money to the party to whom the same is payable, or his attorney, then, and in either of the said cases, it shall and may be lawful for the creditor at whose suit such writ of *fieri facias* or *venditioni exponas*, *capias ad satisfaciendum* or attachment, upon a motion made at the next succeeding court from whence such writ shall issue, to demand judgment against such sheriff, officer, or under sheriff, or securities of such under-sheriff, for the money mentioned in such writ, or so much as shall be returned levied on such writs of *fieri facias* or *venditioni exponas*, with interest thereon, at the rate of fifteen per centum per annum, from the return day of the execution until the judgment shall be discharged; and such court is hereby authorised and required to give judgment accordingly, and to award execution thereon; *Provided* such sheriff or officer have ten days previous notice of such motion.

Creditor to appoint agent.

Sec. 33. And whereas it is unreasonable that sheriffs should be obliged to go out of their counties to give notice to creditors at whose suit any person may be in the custody of such sheriff, or to pay money levied by execution; *Be it therefore enacted*, That where any execution shall be delivered to the sheriff of any other county than that where any creditor resides, such creditor shall name some person in the county where the execution is to be levied, to be his, her or their agent, for the particular purpose of receiving the money on such execution, and for giving to and receiving from the sheriff any notices which may be necessary, relating thereto, and payment made, and notices given to such agents, shall be as effectual as if made or given to the creditor, and if any creditor shall fail to appoint such agent, no judgment shall be entered against the sheriff, for non-payment of the money mentioned in such execution, unless a demand thereof shall have been first made of such sheriff, in his county, by the creditor or some other person having a written order from him; nor in case of failure in appointing such agent shall the sheriff or prisoner be obliged to give notice previous to the discharge of such prisoner, either for want of security for his prison fees, or upon his taking the oath of an insolvent debtor: but such prisoner shall be discharged in those cases, respectively, without any notice to be given to the creditor so failing.

Sec. 34. *And be it further enacted*, That after

Proceedings after final decree in chancery.

obtaining a final decree for lands, slaves, or money, or things of a specific nature, in any court having chancery jurisdiction, the clerk of such court shall, upon the request of the party obtaining such decree, issue any writ of execution, either a *fieri facias*, *capias ad satisfaciendum*, *habere facias possessionem*, or any judicial process which may now issue from any court of common law, according to the nature of the case, for carrying the said decree into effect; which writ shall issue in the name of the Mississippi Territory of the United States, and bear teste and be signed by the clerk of the court, and all process so issued shall be executed and returned to the clerk's office from which the same issued, from term to term, on the return day thereof, by the officer or officers to whom the same shall be directed, and shall have the same operation and possess the same force to all intents and purposes as similar process issued upon judgments at common law, the officer or officers to whom any such process is directed, shall be subject to the like penalties, for misconduct or neglect, and the court shall exercise in this and in all cases relating to such process, the same powers as if the said process had issued upon a judgment obtained at common law: but nothing herein contained shall prohibit any person from proceeding to carry any order or decree in chancery into execution, in any manner in which he might avail himself before the passing of this act.

Leaſed property, how taken.

Sec. 35. *And be it further enacted*, That no goods or chattels whatsoever, lying or being in, or upon any messuage, lands or tenements which are or shall be leased for life or lives, term of years or will, or otherwise, shall at any time hereafter be liable to be taken by virtue of any writ of execution on any pretence whatsoever, unless the party so taking the same, shall before the removal of the goods from off such premises, pay or tender to the landlord, or lessor thereof, or his agent, all money due for the rent of the said premises at the time of taking such goods, or chattels in execution; *Provided nevertheless*, That such rent arrears do not amount to more than one year's rent, and if more be due, then the party suing out such execution, paying or tendering to such landlord, or his agent, one year's rent, may proceed to execute his judgment, and the sheriff or officer levying the same is hereby empowered and required to levy and pay to the plaintiff, as well the money so paid for the rent as the execution money.

Under what reſtrictions execution to iſſue.

Sec. 36. *And be it further enacted*, That no writ of execution shall issue against lands and tenements, unless in the case of an attachment against an absconding debtor, and executions issued in favor of the territory, except the writ of *elegit*, which shall in no case issue where the defendant or defendants, their executors or administrators, hath sufficient goods and chattels to satisfy any judgment or decree which may be rendered against him, her or them.

Sec. 37. *And be it further enacted* That if any person taken in execution under a *capias ad satisfaciendum*, shall commit a breach of the condition of any bond given for the prison rules or bounds, the same proceedings shall be had thereon as is herein before directed in the case of the forfeiture of a forthcoming bond.

Sec. 38. *And be it further enacted*, That in all cases where the writ of *elegit* shall be sued out, that the defendant or defendants shall have the election of the moiety of his, her or their lands to be extended.

Repealing clauſe.

Sec. 39. *And be it further enacted*, That the act entitled, "An act concerning executions," passed the sixteenth of July 1805, the act entitled "An act for the relief of creditors by making composition with their debtors, in case two thirds in number and value agree," and the fifth section of the act entitled, "An act for the well regulating of jails, and for the relief of insolvent debtors," and all acts and parts of acts coming within the purview and meaning of this act, be and the same are hereby repealed.

JOHN ELLIS, *Speaker of the House of Representatives.*
JOSHUA BAKER, *President of the Legislative Council.*

Approved—*February* 7, 1807.
ROBERT WILLIAMS, *Governor of the Mississippi Territory.*

CHAP. XIII.

AN ACT *concerning Executions.**

WHEREAS divers persons residing in other states, governments or dominions, possessed of lands, tenements and hereditaments in this territory, may have contracted or may contract debts with the inhabitants of this territory, without having personal estate in the same, to satisfy such debts and damages:

Sec. 1. *BE it therefore enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That all process, which heretofore issued against goods and chattels, shall hereafter issue against lands and tenements, in the same manner as against goods and chattels in the case of foreigners and non-residents; and the sheriff upon such attachment, execution or other process, shall proceed to levy the same upon the goods and chattels of the defendant, in the first instance, if any there be; but if to the best of his knowledge there be no such goods and chattels, or not sufficient to answer the plaintiff's demand, he shall execute the same upon the lands and tenements of such non-resident, to the amount of the whole debt; or of so much as may remain more than the value of the goods and chattels so found; and such lands and tenements shall be liable under the restrictions aforesaid, to be sold to satisfy the judgment of the plaintiff; and he shall sell the same at the most public place in his county, after his having given at least forty days notice, by advertisement in the public gazettes, before the day of sale.

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* N. B. This act was originally entitled in the Digest "An act concerning executions, and for the relief of insolvent debtors;"—but as there is a new act with this title which repeals the greater part of the act of the same title in the Digest, it was thought proper to style the present law simply "An act concerning executions."

CHAP. XIV.

An Act *establishing the place where the officers therein named, shall keep their respective offices.*

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That the secretary of the territory for the time being, shall keep the public records and documents belonging to his office, at the place designated by law for the sitting of the General Assembly.

Sec. 2. *And be it further enacted,* That if any person or persons possessed of any of the records and public documents belonging, or in any manner appertaining to the government of this territory, which by the laws of the United States, and ordinance for the government of this territory, they may not have a right to retain, shall, on the application of the governor of this territory, for the time being; who is hereby authorised to demand and receive the same, refuse to deliver such records and public documents, the person or persons so refusing shall forfeit and pay the sum of three thousand dollars; to be recovered and appropriated as aforesaid.

Sec. 3. *And be it further enacted,* That it shall be the duty of the attorney general of this territory, and he is hereby required to prosecute and recover, in the name of the governor for the time being, for the use of the territory, all such sums as may become forfeited under this act.

Sec. 4. *And be it further enacted,* That the sheriffs of the several counties in this territory, shall, after the passing of this act, keep their respective offices at the place designated by law for holding the courts of their respective counties.

Sec. 5. *And be it further enacted,* That the several clerks of the county and circuit courts within this territory, except the clerk of the county court of Washington county, shall, from and after the passing of this act, hold and keep their respective offices at the place designated by law for holding the courts of counties respectively.

Sec. 6. *And be it further enacted,* That should either the sheriffs or clerks mentioned in this act, neglect or refuse to comply with the requisitions of the said act, on or before the first day of February next, he or they so offending, shall forfeit and pay the sum of two thousand dollars, for the use of the territory, recoverable in any court of record within this territory, having competent jurisdiction of the same.

Sec. 7. *And be it further enacted,* That the attorney-general for the territory be, and he is hereby authorised and required to prosecute in the name of the governor for the time being, for the use of the territory, and recover all such sums as may become forfeited under this act.

CHAP. XV.

AN ACT *to suspend the operation of an act entitled "An act establishing the place where the officers therein named shall keep their respective offices.*

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That the act entitled "An act establishing the place where the officers therein named shall keep their respective offices," passed the twenty-eighth day of December, in the year one thousand eight hundred and five, be and the same is hereby suspended, until the first day of February, in the year one thousand eight hundred and eight.

JOHN ELLIS, *Speaker of the House of Representatives.*
JOSHUA BAKER, *President of the Legislative Council.*

Approved—*February* 10, 1807.

ROBERT WILLIAMS, *Governor of the Mississippi Territory.*

CHAP. XVI.

AN ACT *establishing the Fees of the several Officers therein named, and for other purposes.*

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That the officers and persons in this act named, shall be entitled to demand and receive, for the services herein after mentioned, the Fees thereto respectively annexed, and no more, to wit:

THE CLERK OF THE SUPREME COURT IN CIVIL CASES AT LAW, FOR EACH

	D.	C.
Writ other than those hereinafter mentioned,	1	50

	D.	C.
For each writ of execution		75
Each subpœna for one witness	1	
Each venire facias for a special jury	1	
Each additional witness named in the subpœna		12 1-2
Docketing each cause		25
Entering appearances		25
Swearing and impannelling a jury		75
Receiving verdict and entering judgment	1	
Entering non-suit, discontinuance or nolle prosequi		75
Entering each continuance		50
Filing each declaration, plea, replication, or other pleading paper		12 1-2
Taking and filing each affidavit		25
Each commission to examine witnesses	1	25
Copies per sheet		16
Each rule of reference and copy thereof		75
Remanding each cause to circuit court		75
Entering each judgment or decision, or demurrer, case stated, motion for new trial, or in arrest of judgment	1	
Recording final judgment, for each sheet		25
Taxing costs		50
Issuing each witness' certificate		37 1-2

IN CHANCERY.

For entering action		25
Entering appearance		25
Filing each bill, answer, replication or other paper		12 1-2
Copies per sheet		16
Entering each rule		25
Entering each continuance		50
Entering each dismission, discontinuance or nolle prosequi		75
Setting down a cause for argument or hearing		25

	D.	C.
For each writ in equity	1	50
Enrolling or recording decree, per sheet		25
Each injunction bond		75
Taxing costs		50

IN CRIMINAL CASES,

Where the services are the same, the same fees as in civil cases, and where the services are not the same, the same fees as are hereafter allowed to the clerks of the circuit courts.

THE CLERKS OF THE CIRCUIT COURT, AND THE CLERK OF THE SUPERIOR COURT OF WASHINGTON DISTRICT, IN CIVIL CASES,

	D.	C.
For each writ other than those herein after mentioned	1	25
Each writ of capias ad respondendum	1	
Docketing each cause		12 1-2
Entering each appearance		12 1-2
Filing bail bonds, declaration, plea, replication, or other pleading or paper		12 1-2
Entering each rule		25
Declaration in ejectment	2	
Order and copy of reference		75
Docketing cause at each term		12 1-2
Entering non-suit, discontinuance, or nolle prosequi		50
Entering each continuance		40
Venire facias to be taxed in every cause tried by a jury		25
Swearing and impanneling a jury		50
Receiving and entering a verdict		25
Entering each judgment in court		50
Each subpœna for one witness		50
Each additional witness		8
Entering tender of principal by his bail,		25

	D.	C.
Commission to take depositions	1	
Copies per sheet		12 1-2
Taking a recognizance		37 1-2
Execution	1	
Taxing costs in each cause		40
Recording final judgment, per sheet		20
Each bail piece		50
Attending supreme courts in each cause taken there from the circuit court	2	
Each scire facias	1	50
Witnesses' certificates, each		25
Affixing seal		50
Each necessary certificate		50

IN CRIMINAL CASES.

For entering the finding of indictment or filing of information		25
Each writ other than those hereinafter mentioned	1	50
Arraigning a prisoner and entering his or her plea	1	50
Taking a recognizance		50
Discharge of recognizance		25
Swearing and impanneling a jury		75
For receiving and entering a verdict		50
Entering a judgment or decree		40
Swearing each witness		12 1-2
Each subpœna for one witness		50
Each additional witness		8
Venire facias to be taxed in every cause tried by a jury		25
Each trial		50
Copies per sheet		12 1-2
Recording final judgment per sheet		20
Taxing costs		50
Witnesses' certificates, each		25

THE CLERKS OF THE COUNTY COURTS,

	D.	C.
Where the services are the same, the same fees as are allowed the clerks of the circuit courts.		
For tavern licence bond rates	2	50
Recording mesne conveyances, for every hundred words		25

THE CHIEF JUSTICES OF THE ORPHANS' COURT;

For examining and stating each account of executors, administrators or guardians	1	
Where such account exceeds three hundred dollars, then for every one hundred dollars above that sum not to be taxed, however, on the balances of former audited accounts		10
For each order for advertising, issuing citations and other notice or process		25
Each order for the partition of real estate among heirs or devisees		50
Each order for the appointment of commissioners or representation of an estate being insolvent		50
Appointment of insolvent estate among creditors	1	
Granting letters testamentary, letters of administration or guardianship	2	

THE REGISTERS OF THE ORPHANS' COURT;

For letters of administration, letters testamentary or guardianship	2	
Each bond		75
Each subpœna, warrant of citation, notice or other process		25

	D.	C.	
If the same contain more than one sheet, then for every sheet exceeding the one		12	1-2
Recording per sheet		16	
Copies per sheet		12	1-2
Each writ of execution or attachment		50	
Each order		25	

THE SHERIFF.

	D.	C.
For levying an attachment on the estate of an absent or absconding debtor	2	
Where the same is levied on a garnishee for summoning each garnishee		50
Where the property attached is sold the same commissions as for selling by execution		
Levying capias ad respondendum or other mesne process	1	50
Levying execution	1	50
*E*ntering writ in sheriff's office		50
Return of capias		75
Return of execution	1	50
Serving defendant with copy of a writ		25
*E*ach bail bond or recognizance		75
Summoning each witness		50
*E*xecuting venire facias to be taxed in each cause tried by a jury		50
Summoning a special jury	3	
*E*xecuting writ of possession and return	3	
Attending sale at auction of goods taken on execution for each day	2	
Deed to purchaser of real estate	3	
Attending a prisoner on habeas corpus for each day	2	

	D.	C.
Each commitment or releasement	1	
Victualling a prisoner per day		40
Serving a declaration in ejectment and copy thereof	3	
Making the money on any execution, if it does not exceed two hundred dollars, five per cent. on the amount, if it exceeds that amount two per centum on the overplus.		

WITNESSES.

	D.	C.
To every witness for each day's attendance	1	
For every twenty-five miles travelling to and returning from the place of holding Court, the allowance of one day's attendance		

JUSTICE OF THE PEACE.

	D.	C.
For celebrating the rites of matrimony	2	
Each warrant in criminal cases		50
Each judgment in qui tam prosecutions		75
Each mittimus or recognizance		50
Each subpœna		25
Each warrant in civil cases, and proceedings thereon to judgment		50
Each execution		50
Each attachment, including bond and affidavit	2	
Each appeal, with the proceedings, including bond, &c.	1	
Each necessary certificate		25
Taking depositions by virtue of dedimus potestatem, for each sheet		16

CONSTABLES.

	D.	C.
For serving each warrant		75

	D.	C.
For serving writ of execution		75
Serving subpœna on each witness		50
Executing mittimus in criminal cases, for each defendant		75
Whipping a slave by order of a justice of the peace, to be paid by the owner	1	
Summoning a coroner's inquest, to be paid by the territory	2	
Attending circuit or supreme courts, when summoned by the sheriff, to be paid by the territory, for each day	1	
Attending on a jury, in each cause tried		50

CORONERS.

For taking an inquest, to be paid by the territory	10	
All other services done by them, the same fees as are allowed the sheriffs for similar services.		

Sec. 2. *And be it further enacted*, That a sheet of writing within the meaning of this act, shall contain one hundred words.

Penalty for extortion.

Sec. 3. *And be it further enacted*, That if any officer before named shall take greater fees than are herein before allowed them for any service to be done in his office, or if such officer shall charge, demand or take any fees herein before ascertained, for services not actually rendered, every officer so offending, shall forfeit and pay to the party injured, fifty dollars, to be recovered in any court having competent jurisdiction.

Allowance to officers of supreme, superior & circuit courts.

Sec. 4. *And be it further enacted*, That the judges of the supreme, superior and circuit courts of this territory shall make such allowance from time to time, to their officers, as they may think reasonable, for all public services by them rendered, provided the same does not exceed per year, the sum of one hundred dollars to each officer; which allowances shall be certified to the auditor of public accounts, and he shall be thereupon authorised to issue his warrant on the territorial treasurer, for the amount so allowed and certified.

No fees allowed in a certain caſe.

Sec. 5. *And be it further enacted*, That when any person or persons shall be presented, indicted or prosecuted, for any capital or inferior offence, and shall be discharged or convicted, and the court shall not direct the cost to be taxed on the prosecutor, or paid by the person convicted, the clerk and sheriff or said court, shall be entitled to no more fees for the same, but it shall be deemed to be included in their public services.

Allowance to officers of the county courts

Sec. 6. *And be it further enacted*, That there shall be allowed by the county courts to their clerks respectively, for all public services, to wit: for entering and issuing copies of orders for appointing surveyors of the highways, appointing overseers of the poor, issuing *venire facias* for summoning of juries, entering orders for the allowances of accounts against the county, recording and certifying the same, and for all other public services for which no particular fees are allowed, a sum not exceeding fifty dollars per year, to be paid by the county.

To ſheriffs.

Sec. 7. *And be it further enacted*, That there shall be allowed by the justices of the county courts to the sheriffs of such counties respectively, for all public services, to wit: for summoning grand juries, attending the orphans' court, holding elections, advertising and selling estrays, serving all public orders of the county court, and for all other public services for which no particular fees are allowed, a sum not exceeding fifty dollars per year, to be paid by the county.

Sec. 8. *And be it further enacted*, That it shall and may be lawful, for the clerks of the several

Clerk to iſſue execution, when fees are not paid.

courts within this territory, when suits are determined and the fees not paid by the party from whom they are due, to make out executions directed to the sheriff of the county where the party resides, and it shall and may be lawful for the registers of the several orphans' courts to make out executions in like manner for the fees that may become due the officers of said courts, by virtue of this act, directed to the sheriff of the proper county, and the said sheriff shall levy the same, by virtue of said execution as in other cases, and to the said execution shall be annexed a copy of the bill of costs of the fees on which such execution shall issue, wrote in words at length, without any abbreviation whatever; and all executions issuing without the copy of such bill of costs shall be deemed illegal, and no sheriff shall serve or execute the same.

Suit to be diſmiſſed, if ſecurity be not given for coſts.

Sec. 9. *And be it further enacted*, That every action at common law, or suit in chancery, commenced in the name of any person residing out of this territory, shall be dismissed if security be not given with the clerk of the court from whence the process shall issue, or wherein it shall be depending, within sixty days after notice shall, at any time during such non residence, have been given to the plaintiff or his attorney, by some person interested, that such security is required for the payment of the costs which may be awarded to the defendant, and also of the fees that is or may become due to the officers of the court; and after security shall be so given, and the fees not paid at the time the same becomes due, it shall and may be lawful for the court in which the cause was commenced, to enter up judgment on motion against such security, and award execution accordingly.

And execution awarded.

Conſtables to attend circuit courts.

Sec. 10. *And be it further enacted*, That it shall be the duty of the sheriff, to summon three constables to attend each circuit court, who shall attend accordingly, or pay a fine at the discretion of the said court, not exceeding ten dollars.

Sec. 11. *And be it further enacted*, That all acts, or parts of acts heretofore passed, and coming within the purview or meaning of this act, be and the same are hereby repealed.

Repealing clauſe.

JOHN ELLIS, *Speaker of the House of Representatives.*
JOSHUA BAKER, *President of the Legislative Council.*

Approved—*February* 6, 1807.
ROBERT WILLIAMS, *Governor of the Mississippi Territory.*

CHAP. XVII.

AN ACT *directing the building and establishing of a Court-House, Gaol, Pillory, Whipping-Posts, and Stocks, in every County.*

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That there shall be erected and established in every county, in which public buildings are not already provided, a good and convenient court-house, for the legal adjudication of causes; and a strong and sufficient gaol or prison, for the reception and confinement of debtors and criminals; well secured by timber, iron grates, bolts and locks: and also a pillory, whipping-posts; and so many stocks, as may be convenient for the punishment of offenders. And every gaol so to be erected, shall consist of three apartments at least; one of which shall be appropriated to the reception of debtors.

Court-houſe, gaol, &c. to be erected in each county.

Sec. 2. *And be it further enacted*, That every court-house and gaol to be erected as aforesaid, shall

Under the direction of the juſtices thereof,

be formed of such materials, and to such dimensions, and on such plans, as shall be directed by the justices of the county court, or a majority of them, in each county; who are hereby authorised to plan and project the same; and to accept as a gift, or to purchase for the use of the county, so much ground in the towns where the courts may be ordered to sit, as they may judge convenient and necessary whereon to build all or any of the structures aforesaid. Which purchase money shall be defrayed by the proper county, and laid in the county estimates.

Who are to appoint commiſſioners to ſuperintend, &c.

Sec. 3. *And be it further enacted*, That the said justices, or a majority of them in every county, shall appoint two commissioners, of industry and knowledge, sufficient to plan and carry into effect, by drawing the draught, superintending the foundation, and erecting and completing of every court-house, gaol, pillory, whipping-post, and stocks respectively. And for the faithful discharge of their duty in this behalf, the said commissioners shall enter into bonds in the sum of five hundred dollars, with sufficient sureties to the justices of the county court, in trust for the county; well and truly to account with the said justices, as often as they may be thereunto required by them, for the disposition of all money or other property, by them received from time to time, from the said justices or treasurer, or any other person; or by any means whatever, for the purpose of aiding or assisting in building the said court-house, gaol and other structures, in the county to which the commissioners may severally belong. And on default in the commissioners, for want of attention or competent knowledge to carry on the work with propriety, the said justices shall have power to discharge one or both of them, and place others in their stead; taking the same surety from them.

Sec. 4. *And be it further enacted*, That every county, now or hereafter to be erected and laid off within the territory, shall defray all expences that may attend the building and keeping in good repair, within itself, the court-house, gaol, pillory, whipping-posts, and stocks, hereby ordered: and to this purpose, for the greater forwarding of the business, it shall be lawful for the justices aforesaid, and they are hereby authorised, to draw out of the hands of the treasurer of the county, any sums of money which he may have received belonging to the county, not otherwise appropriated: and the said justices are hereby directed to apply the same wholly to the purposes of building a gaol and court-house, pillory, whipping-posts and stocks. But in every county, a gaol shall be first erected; and the treasurer and justices are to govern themselves accordingly.

CHAP. XVIII.

AN ACT *for the well regulating of Gaols.*

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That all warrants, mittimuses, writs, process, or precepts of any kind, or the attested copies thereof, by which any prisoner may be committed to or enlarged from any gaol in this territory, shall be regularly filed in their order of time, and safely kept by the sheriff, or keeper of the gaol, under his direction: and upon the death, removal, or resignation of any sheriff, all said warrants, mittimuses, writs, process and precepts, or copies thereof, filed and kept as aforesaid, shall be delivered over to his successor in office, on demand by him made, under the penalty of three hundred dollars; to be recovered of the sheriff so resigned or removed; or his executors or ad-

Mittimuſſes, writs, &c. to be filed.

ministrators, in case of his death, one half to the use of the person suing for the same, and the other half to the use of the proper county.

Duty of justices.

Sec. 2. *And be it further enacted*, That it shall be the duty of the justices of the county court, at the beginning of every stated court, to enquire into the state of the prisons in their respective counties, with regard to the sufficiency of such prisons; the condition and accommodation of the prisoners; and they shall from time to time take such legal measures as may best tend to secure the prisoners from escape, sickness and infection: and to have the gaols cleansed from filth and vermin: and the sheriff shall keep separate rooms for the sexes, except where they are lawfully married; and be responsible that his gaoler at all times provide proper meat and drink for all criminals committed to the gaol of the county; if such prisoner have no other convenient way of supplying themselves with provisions, which shall always pass to them through the hands of the keeper.

Maintenance of prisoners.

Every person committed to prison in a civil case, or for a criminal offence, may furnish his or her own support and maintenance: and the sheriff or gaoler shall admit any person who will administer to the wants of such prisoner, to furnish him or her with necessary support and maintenance; in such manner, however, as not to aid any escape, or endanger the security of the prison.

Any person imprisoned in a civil or *qui tam* action, shall furnish his, or her own sustenance, or pay the gaoler fees for the same, until lawfully discharged: and when any prisoner shall be committed to gaol in a civil action, as aforesaid, and shall provide for his, or her own support, in any way wherein the sheriff or gaoler shall have no concern; it shall be the duty of the gaoler, or prison keeper, to admit to the wicket grate, or small window of the prison, in which such prisoner shall be confined, any person who may come to administer to the wants of such prisoner, by furnishing him or her with meat or drink; which shall be conveyed through such small window or grate, that the security of the prison be not too frequently exposed by opening the doors thereof.

Sec. 3. *And be it further enacted*, That every person confined for a criminal offence, who may be unable to support him or herself in prison, shall be supplied by the sheriff or gaoler, under his direction, with daily sustenance; and in case of conviction and inability to discharge the fees for sustenance: or in case of acquittal, and the fees be not taxed on the prosecutor, the same shall be discharged by the territory; and the auditor of public accounts shall draw a warrant in favor of said sheriff, or gaoler, therefor, on the certificate of the court, having cognizance of the offence, or supposed offence: for which such prisoner was confined, that the said sheriff or gaoler is entitled thereto: and no fees, expences, or perquisites, whatever, except what are or may be set down, and allowed by law, shall be taken or received of a prisoner, or charged against the territory.

Sec. 4. *And be it further enacted*, That no sheriff, gaoler, or person having the care or keeping of any gaol, shall sell or dispose of, to any person or persons under arrest or in prison, any wine, rum, brandy, whiskey, or other strong or intoxicating liquor, under the penalty of twenty dollars for each offence, to be recovered before any magistrate of the proper county: one half to the person suing for the same, and the other half to the use of the county.

Priſon bounds.

Sec. 5. *And be it further enacted*, That a gaol-yard, or limits to any prison may be laid out and surveyed, adjoining and appertaining to said prison, not exceeding ten acres of ground: which said limits or prison bounds shall be fixed and ascertained by the county court in each county; and entered on record in such court.

Sec. 6. *And be it further enacted*, That any prisoner imprisoned in a civil action for debt or damages on original, *mesne*, or final process, shall have the liberty or limits of such gaol-yard, on entering into bond and security, as herein after mentioned.

Sec. 7. *And be it further enacted*, That any prisoner imprisoned as mentioned in the last preceding section, may enter into a bond, with two sufficient securities, to the plaintiff, in double the sum of the debt or damages for which he is imprisoned: which said bond the sheriff or gaoler shall take, with a condition in the form following: to wit—"The condition of the above obligation is such, that if the above bound A. B. a prisoner in the gaol of county, at the suit of C. D. do and shall from the date hereof continue a true prisoner in the custody, guard and safe keeping of the keeper of said prison; or of his steward, deputy, or other officer; or of some of them within the limits of said prison as by law established, until he shall be thence discharged by due course of law, without committing any escape in the mean time; then this obligation shall be void, else to remain in full force and virtue." And the sheriff shall be authorised to take said bond on the approbation thereof of any two justices of the county court, or any of the territorial judges: and on condition broken of the said bond, the same may be put in suit, and the debt or damages for which such prisoner was imprisoned, together with ten per cent. interest thereon, from the time of commitment recovered: and the court shall chancer the said bond accordingly.

CHAP. XIX.

AN ACT *respecting Sheriffs and Coroners.*

SHERIFFS.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That every sheriff who may be appointed within this territory, shall take the oaths of allegiance to the United States, and of office: and shall give bond with two sufficient sureties, in the penal sum of four thousand dollars, for the faithful discharge of the duties of his office.

The duties of a sheriff shall be, to keep the peace, by causing all offenders against law, in his view, to enter into recognizances, with sureties, for keeping the peace, and appearing at the next circuit or superior court, to be holden in the same county; and to commit, in case of refusal.—Which recognizances, shall, by the said sheriff, be returned and certified before the said court.—It shall also be his duty to quell and suppress all affrays, routs, riots, and insurrections: for which end he shall, and is hereby empowered, to call to his aid the power of the county.—He shall pursue, apprehend, and commit to gaol, all felons and traitors; he shall execute all warrants, writs, and other process; which by law, shall appertain to the duties of his office; and which shall be directed to him by legal authority.—He shall duly attend upon all the courts of record, at their respective terms, or sessions, in his county.

CORONERS.

Sec. 2. *And be it further enacted,* That every coroner, who may be appointed within this territory, shall be sworn to a faithful discharge of his office; and shall give bond in the sum of two thousand dollars, with two sureties, for the due performance of the same, before he enters upon the duties thereof.

And it shall be the duty of the coroner, by a jury of the county, to enquire concerning the death of a person slain, who dies suddenly, or in prison; and his inquisition so taken, he shall certify to the next circuit or superior court, holden within the county.

And it shall be the duty of the coroner to execute process of every kind, wherein the sheriff is a party, or interested in the suit; or for other just cause, is by law rendered incapable to execute the same.

And in case the sheriff, for any cause, shall be committed to gaol, the coroner shall by himself, or such person as he shall appoint, be keeper of the gaol during the time the sheriff shall remain a prisoner.

Sec. 3. *And be it further enacted*, That the coroner, upon information, shall go to the places where any be slain, or suddenly dead, or wounded; and shall forthwith command four freeholders, or house keepers of the county, or five or six to appear before him in such a place; and when they are come thither, the coroner upon the oath of them, shall enquire in this manner; that is, to wit: if they know where the person was slain; whether it was in any house, field, bed, tavern, or company, and who were there? Likewise it is to be enquired who were culpable, either of the act, or of the force; and who were present, either men or women; and of whatever age soever they be, (if they can speak or have any discretion)—and how many soever be found culpable by inquisition, in any of the manners aforesaid, they shall be taken and delivered to the sheriff, and shall be committed to the goal, until the next court having jurisdiction of the offence. If it happen that any such man be slain, who is found in the fields, or in the woods, first it is to be enquired, whether he were slain in the same place or not: and if he were brought and laid there, they shall do as much as they can to follow their steps that brought the body thither, whether he were brought upon a horse or in a cart; it shall be enquired also, if the dead person were known, or else a stranger, and where he lay the night before: and immediately upon these things being enquired, the bodies of such persons being dead or slain, shall be buried—in like manner it is to be enquired of them that be drowned or suddenly dead; and after such bodies are to be seen, whether they were so drowned, or slain, or strangled by the sign of a cord tied strait about their necks, or about any of their members, or upon any other hurt found upon their bodies; whereupon they shall proceed in the form abovesaid; and if they were not slain, then ought the coroner to attach the finders and all others in company: also all wounds ought to be viewed; the length, breadth, and deepness; and with what weapons, and in what part of the body the wound or hurt, and how many be culpable, and how many wounds there be, and who gave the wounds? All such things must be enrolled in the rolls of the coroners.

It shall, moreover, be the duty of the coroner, to enquire of the death of all persons whatsoever who die in prison, to the end that it may appear, whether such persons came to their end by the common course of nature, or by some unlawful violence, or unreasonable hardships put on them by those under whose power they were confined.

Sec. 4. *And be it further enacted*, That every coroner, upon any inquisition before him found, whereby any person or persons shall be indicted for murder or manslaughter, or as accessary or accessaries to the same, before the murder or manslaughter committed, shall put in writing the effect of the evidence given to the jury before him, being material; and shall bind all such by recognizance or obligation, as do declare any thing material relating to the same, to appear at the next circuit or superior court; to be holden within the county, where the trial thereof shall be; then and there to give evidence between the territory and the party so indicted, at the time of the trial, and shall certify as well the same evidence, as such bond or bonds in writing, as he shall take, together with the inquisition or indictment before him taken and found, at or before the time of his said trial thereof, to be had or made; and in case any coroner shall offend in any thing contrary to the true intent and meaning of this act, the circuit or superior court, holden in the county where such offence shall happen to be committed, upon due proof thereof, by examination before them, shall for every such offence set such fine on every such coroner, as they shall think meet.

Sec. 5. *And be it further enacted*, That if any person be grievously wounded, especially if the wounds be mortal, the party accused shall be taken immediately, and kept until it be perfectly known, whether he that was hurt, shall recover or not; and if he die, the defendant shall be kept; and if he recover health, he shall be attached by pledges, according to the danger of the wound.

Moreover, if any be accused of any act done as principals, they that be accused as accessory shall be attached also, and safely kept in custody until the principal be attainted or delivered.

If any be suspected of the death of any man being in danger of life, he shall be imprisoned as before is said; in like manner hue shall be levied for all murders and burglaries, and for men slain, or in peril to be slain; and all shall follow the hue and steps, as near as can be; and he that doth not shall be amerced at the discretion of a jury.

If any be found culpable by inquisition, taken in manner directed by this act, and be not present in custody, the coroner shall straight issue his warrant to apprehend the person so found culpable; and the accessories if any, and the person accused, if apprehended, shall straightway be carried before some justice of the county or corporation, where such offence was committed, to be dealt with as the law directs.

If any coroner be remiss, and make not inquisition upon a view of the body slain or murdered, or shall not endeavour to do his office upon any person dead by misadventure, or shall not certify the inquisition by him taken in the manner directed by this act, he shall for every such offence forfeit the sum of three hundred dollars, to be recovered by action of debt, in any court of record of this territory; one half thereof to the use of the informer, and the other half to the use of the territory.

Sec. 6. *And be it further enacted*, That whenever it shall happen in the case of any sudden death, or death in prison, that the coroner cannot in convenient time be requested to attend; it shall be the duty of the nearest justice of the peace to perform the services required in this act, to be performed by the coroner.

CHAP. XX.

AN ACT *prescribing the Duties of Constables*.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That one or two fit and proper persons shall be annually appointed in every captain's district in the several

Conſtables to be appointed.

Their oath, bond, &c.

counties of the territory, to act as constables; who shall hold their appointment for one year, and until a successor be duly qualified: and shall take and subscribe the following oath or affirmation: that is to say—"I, A. B. do solemnly swear (or affirm, as the case may be) that I will faithfully execute and return all summons, warrants, precepts and executions, directed to me as constable for the county of ; and in all things, well and truly to the utmost of my power, without malice or partiality, perform the duties of a constable for the time I may continue in office: So help me God." And previous to their entering on their respective appointments, shall severally give bond to the Governor and his successors in office; with security; which shall be approved of by the said justices, for the true and faithful performance of the duties of their respective appointments: which bond shall be deposited in the clerk's office of their respective counties.

In caſe of vacancy.

Sec. 2. *And be it further enacted,* That any justice of the peace may, in case where there is no constable in his district, either from death, removal, or otherwise, authorise some person to execute the duties of constable until such vacancy is filled.

Duties.

Sec. 3. *And be it further enacted,* That it shall be the duty of the constables of the several counties to serve all warrants, summons, executions, and other process to them directed by any lawful authority, agreeable to the tenor thereof; and make due returns of the same: and if any constable shall fail to execute and make returns, or to pay to, or account with any person for whom he may have received money; or to return the same to the justice issuing the warrant or execution, within ten days after the receipt thereof, the person so injured as aforesaid, may, upon application to any justice within the district, obtain a warrant against him; and such justice shall, upon proof thereof, award judgment and execution for the same, and all costs against such constables; and also fine him for such abuse, in a sum not exceeding ten per cent, on the amount so withheld: and in case of neglect or refusal to serve and return any warrant or summons as aforesaid, may fine the constable so offending, in a sum not exceeding the sum due by the defendant.

Constables to take forthcoming bonds, &c.

Sec. 4. *And be it further enacted*, That where any property shall be taken by a constable by virtue of his office, he may, on the person or persons from whom such property may be taken, giving bond with approved security, for the delivery of such property on the day of sale, suffer it to remain in the hands of the debtor—but when such person or persons shall not be able, or shall refuse to give such security in either case, and the property consisting of live stock, the constable shall take care of the same; and an allowance shall be made him out of the sale of such property, to be adjudged of by the justice, to whom such execution is returned; and the constable shall be allowed twenty-five cents for taking such bond; and there shall not be more than fifteen days between the constable's executing and selling any property taken by virtue of an execution; the constable shall give ten days notice, at least, of such sale, by advertising at the most public place or places in the neighbourhood, of the time and place of such sale, where the person or persons may render, from whom such property is taken.

Sec. 5. *And be it further enacted*, That when a bond shall be given for the delivery of property, and the same shall not be delivered at the day of sale, agreeable to the tenor of said bond, the constable shall return the bond to the justice who issued the execution. And it shall be the duty of the said magistrate, on the application of the plaintiff or his agent, to issue a new execution on the said bond; on which new execution the constable shall be entitled to the same fees, as he was entitled to on the service of the first execution, and there shall be no security taken: *Provided*, That nothing in this act contained shall relate to the office or duties of constables, appointed, or that may be appointed, by the corporation of the city of Natchez.

CHAP. XXI.

AN ACT *concerning Counsel and Attornies at Law.*

Attornies to be licenced, and take an oath.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That no person shall hereafter be permitted to practice as counsel or attorney at law, in any of the courts of this territory, without previously producing to the court a licence from the Governor of the territory, for the time being: and in the presence of such court, shall take an oath to support the constitution of the United States; and also the following oath of office:—"I, A. B. do solemnly swear, (or affirm) that I will honestly demean myself in the practice as counsel or attorney: and will, in all respects, execute my office according to the best of my knowledge and abilities." And if any person shall presume to practice as counsel or attorney, without being licenced and qualified as aforesaid, he shall forfeit the sum of two hundred dollars for every cause he shall prosecute or defend, in any court in this territory: one half to the use of the informer, the other half to the use of the territory; to be recovered by action of debt in any court of record: *Provided*, That nothing herein contained shall be so construed as to prevent or deprive any citizen from the privilege of personally prosecuting or defending any suit, in which he may be a party.

Convicted felons not admitted to practice.

Sec. 2. *And be it further enacted*, That every person that hath already been, or shall hereafter be convicted of any felonious crime, shall be incapable of obtaining such licence; or if licensed, the judges of any court, in which such person may practice, on proof thereof being made to them, may supercede his licence.

Judges may ſuſpend or vacate licence, &c.

Sec. 3. *And be it further enacted*, That if the judges of the superior courts, from their own observation, detect any mal-practice in the said courts, in any counsel or attorney of those courts; or if complaint in writing be made to them of such mal-practice in the said courts, or in the county courts of any county, the party accused shall be summoned to shew cause why an information should not be filed against him: and if such information should be ordered, and the counsel or attorney so offending should be found guilty of the matter therein charged, the said judges of the superior courts may either suspend his licence during a certain time, or vacate it altogether, as they shall judge most proper; first ordering a jury to be impanneled for the trial of such information. And the judges of the superior, and justices of the county courts, shall have power to fine any attorney for misbehaviour or contempt offered to them, and may cause any attorney practising in said courts, to find security for his good behaviour.

Attornies li
ble for negle

Sec. 4. *And be it further enacted*, That if any suit shall be dismissed for the non-attendance or neglect of an attorney, practising either in the superior or county courts, not having a just and reasonable excuse, it shall be at his cost.—And he shall moreover be liable for all damages his client may sustain, by such dismission, or any other neglect of his duty; to be recovered in any court of record.

Sec. 5. *And be it further enacted*, That every attorney receiving money for his client, and refusing to pay the same when demanded, shall be proceeded against in a summary way, on notice before any court of record; in the same manner as sheriffs are, or may be liable to be proceeded against for money received on executions.

Sec. 6. *And be it further enacted*, That in all cases where the sheriff is, or may be authorised by law, to take the engagement of an attorney, endorsed upon the writ, that he, such attorney, will appear for the defendant or defendants; every attorney thus entering into such engagement, who shall fail to enter an appearance agreeably thereto, shall forfeit to the defendant or defendants, twenty-five dollars; for which judgment shall be immediately entered, and execution issue thereon.

Sec. 7. *And be it further enacted*, That the judges of the superior courts, and the justices of the county courts, shall not suffer more than two attornies to argue on any side, in any suit.

Penalty for acting under power of attorney made before action brought.

Sec. 8. *And be it further enacted*, That if any attorney, or other person, practising as an attorney, shall presume to appear under any power of attorney, made before action brought, for confessing or suffering judgment to pass, by default or otherwise, for any defendant in any court of record within this territory, he shall for every such offence, forfeit and pay two thousand dollars, to such defendant, for his or her own use; to be recovered with costs by action of debt or information, in any court of record; and moreover shall be liable to an action for damages, at the suit of the party aggrieved.

Officers not to appear as attornies.

Sec. 9. *And be it further enacted*, That no justice of the peace, sheriff, or under sheriff, or clerk of any county court, shall appear, or plead as attorney, for any person or persons, whatsoever, in the court of the county whereof he is a member, officer, or clerk; except only as general attorney for any person or persons, not residing, or being within this territory; under penalty of being fined by such court, in the sum of fifty dollars, for every such offence; to the use of the same county, towards lessening the levy thereof.

Penalty for taking extra fees.

Sec. 10. *And be it further enacted*, That the lawyers in this territory shall not demand, directly, or indirectly, or by any advice, way or means whatsoever, take or recover before the suit or suits, they are or shall be employed in, shall be finally determined, any greater fees for their services than are allowed by law: and any lawyer exacting, taking, receiving, or demanding any greater fee or reward, for his services, before he has performed the said services; or finished the suits in which he may be employed, shall forfeit and pay three hundred dollars for every offence: one half to the territory and the other half to the informer; to be recovered by action of debt or information, in any court of record within this territory.

Sec. 11. *And be it further enacted*, That nothing in this act shall be construed as to prevent or deprive any citizen from the privilege of personally prosecuting or defending any suit in which he may be a party

CHAP. XXII.

An Act *concerning Attornies-General.*

Attorney-general to be appointed.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That from and after the passing of this act, there shall be one attorney-general appointed in and for the counties of Wilkinson, Adams, Jefferson, and Claiborne.

Sec. 2. *And be it further enacted*, That it shall

His duties.

be the duty of the said attorney-general, and he is hereby directed to attend the circuit courts, to be held for the counties of Adams, Jefferson, Wilkinson, and Claiborne: in which said courts it shall be his duty to appear for the territory in all criminal prosecutions, and in all civil cases, in which the territory or counties aforesaid shall be interested: *Provided however*, if the attorney-general fails to attend at any, or either of the said courts, the judges are hereby authorised, from time to time, as they may think fit, to employ some attorney to prosecute and act for the territory or county, (as the case may be) in his stead: which attorney so employed, shall for his services be paid by the attorney-general, such sum as shall be adjudged sufficient by the court, before whom the services may be rendered.

Attorney-general to be appointed for Waſhington diſtrict.

Sec. 3. *And be it further enacted*, That there shall be one attorney-general appointed in and for the county of Washington; whose duty it shall be to attend the court of the said county, and the superior court, held for the district of Washington: and in all other respects he shall be subject to the same rules and regulations as are specified in the preceeding section.

Further duties of attornies-general.

Sec. 4. *And be it further enacted*, That all accounts of a public nature, before they are allowed by any, or either of the courts aforesaid, shall be presented to the attorney-general of the district in which the same shall have arisen, and his opinion thereon obtained in writing—and it shall be the duty of the attorney-general, to be appointed for the counties of Adams, Jefferson, Wilkinson, and Claiborne, to etablish his usual residence at the place where the General Assembly holds its sessions; and he shall at the requestof the territorial treasurer, and of the county treasurer, for the said counties, give his opinion in writing upon all cases concerning the public interest; and shall at the desire of the said treasurers, institute and prosecute to effect, before the proper courts, suits against all persons indebted to the territory, or to the said counties.

Their ſalary.

Sec. 5. *And be it further enacted*, That the salary of the attorney-general, in and for the counties of Wilkinson, Adams, Jefferson, and Claiborne, shall be seven hundred dollars per annum: and the salary of the attorney-general, in and for the counof Washington, shall be two hundred and fifty dollars per annum; to be paid annually out of the territorial treasury.

And fees.

Sec. 6. *And be it further enacted*, That on all indictments for felonies, whereon a conviction shall be had, the fee of the attorney-general shall be ten dollars; and on all inferior prosecutions, upon which judgment shall be given against the defendant, the sum of five dollars; to be collected as other fees, and paid by the proper officer receiving the same, into the territorial treasury, as a part of the public revenue.

Repealing clauſe.

Sec. 6. *And be it further enacted*, That all acts, and parts of acts heretofore made, coming within the purview and meaning of this act, be, and the same are hereby repealed.

CHAP. XXIII.

AN ACT *respecting Oaths of Office.*

Oath to be taken by all officers, where no ſpecial oath is preſcribed.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That where no especial oath of office is prescribed by law, every person appointed to any civil office in this territory, and commissioned by the governor, shall previously to his entering upon the exercise of his office, take the following oath; viz. I, A. B. being appointed to the office of , do solemnly swear, that I will well and truly execute the duties of my said office, according to the best of my skill and understanding, without fraud or partiality. So help me God.

Perſons may affirm.

And any person appointed as aforesaid, conscientiously scrupulous of taking an oath, shall make the following affirmation, previously to entering upon the duties of his office: viz—I, A. B. being appointed to the office of   ; do solemnly, sincerely and truly declare and affirm, that I will well and truly execute the duties of my said office according to the best of my skill and understanding, without fraud or partiality: and this I declare and affirm, under the pains and penalties of perjury.

Oaths; before whom taken.

Sec. 2. *And be it further enacted*, That all the oaths of office, or declarations and affirmations, prescribed as aforesaid, shall be taken before the governor, or one of the territorial judges or one of the justices of the county court of the county for which such officer may be appointed.

CHAP. XXIV.

An Act *to render Promissory Notes and Cotton Receipts negotiable, and for other purposes.*

Promiſſory notes and Cotton receipts, how negociable.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That all notes signed by any person or persons, body politic or corporate, or by the servant or agent of any corporation, banker, merchant or trader, who is or shall be usually entrusted to sign such promissory notes for them, whereby such person or persons, body politic or corporate, or the servant or agent, of any corporation, banker, merchant or trader, shall promise to pay any person or persons, body politic or corporate, or the servant or agent of any corporation, banker, merchant, or trader, or order, or bearer, the money mentioned in such note, shall be construed to be, by virtue thereof, due and payable to such person or persons, body politic or corporate, or the servant or agent of any corporation, banker, merchant, or trader, to whom the same is made payable; and also such note payable to such person or persons, body politic or corporate, or the servant or agent of any corporation, banker, merchant or trader, or order or bearer, may be assignable over in like manner, as inland bills of exchange are by custom of merchants in England.—And the person or persons, body politic or corporate, or the servant or agent of any corporation, banker, merchant, or trader, to whom such money is or shall be payable, may maintain an action for the same, as they might upon such bill of exchange. And the person or persons, body politic or corporate, or the servant or agent of any corporation, banker, merchant or trader, to whom such note so payable, to order or bearer, is assigned or endorsed, may maintain an action against the person or persons, body politic or corporate, or the servant or agent of any corporation, banker, merchant, or trader, who signed, or shall sign such note, or any who shall, or have endorsed the same, as in cases of inland bills of exchange, and recover damages, and costs of suit: and in case of non-suit, or a verdict shall pass against the plaintiff, the defendant shall recover costs.

Sec. 2. *And be it further enacted*, That all such receipts as are or shall be signed by the owner or owners of cotton gins, or by the servant or agent of any owner or owners of cotton gins, who is, or shall be usually entrusted to sign such receipts, commonly called cotton receipts; whereby such owner or owners of cotton gins, his, her, or their servant or agent, shall acknowledge to have received any quantity of cotton, the quantity of cotton mentioned in such receipt, shall be construed to be by virtue thereof due, and payable to such person or persons, of whom the same is acknowledged to have been received.

And such cotton receipts, whereby any quantity of cotton is acknowledged to have been received of such person or persons, may be assignable over in like manner as promissory notes are by the foregoing section of this law.

And the person or persons to whom such cotton receipt, whereby any quantity of cotton is acknowledged to have been received as aforesaid, is assigned or endorsed, may maintain an action against the owner or owners of any cotton gin, his, her, or their servant or agent, who signed or shall sign such cotton receipt, or any who shall or have endorsed the same, as in cases of promissory notes aforesaid, and recover damages and costs of suit.

Cotton receipts, how recoverable.

Sec. 3. *And be it further enacted*, That all cotton receipts given by gin-holders, in which no time of payment or delivery of the cotton therein mentioned, is expressed or limited, shall be taken and construed to be payable or deliverable within four months, from the date or delivery of such receipts: and on the non-payment or non-delivery of any cotton specified in any receipt, expressing the time of payment or delivery thereof, at the time so expressed: or on the non-payment, or non-delivery of any cotton specified in any receipt, not expressing the time of payment or delivery thereof, at the expiration of the said four months, the legal holder or holders of such cotton receipts, shall in either case after lawful demand made, be entitled to recover twenty per centum, damages, on the value of the cotton specified in such receipt; to be recovered with costs of suit; *Provided*, That if any owner of a gin shall deliver the full amount of any cotton due on any such receipts, within fifteen days after lawful demand shall have been made, by the legal holder of such cotton receipt, or by his agent. *And provided also,* That when from default of the owner, or holder of the said receipts, the necessary bagging and cordage have not been duly supplied, then in either case, such owner of a gin, shall not be liable to pay any damages whatsoever, any thing to the contrary contained in this act notwithstanding.

Orders.

Sec. 4. *And be it further enacted,* That when any person or persons shall, by order in writing, signed by his or their proper hand, direct the payment of any sum or sums of money, in the hands or possession of any other person or persons whatsoever, the money therein specified, shall by virtue thereof, be due and payable to such person or persons to whom the same is drawn payable, and may be put in suit against the person or persons who may draw the same, or against the person or persons on whom the same shall be drawn, (after acceptance thereof) by him or them, to whom the same shall be made payable, and recover damages: *Provided, nevertheless,* That no person or persons whatsoever, shall prosecute any suit against any person or persons, who shall give such order for the money therein mentioned, before the same shall have been presented for acceptance, and notice given of the non-acceptance thereof, to the drawer: or before the same shall have first been protested for non-acceptance, and notice given thereof to the drawer before such suit shall be brought; and if any suit shall be brought on any such order, before notice and refusal to pay as aforesaid, the plaintiff or plaintiffs shall be non-suited and pay costs.

Bills of exchange.

Sec. 5. *And be it further enacted,* That all bills of exchange hereafter drawn upon any person resident within the United States, and out of this territory, which shall be returned protested, the damages of such protested bills, shall be fifteen per cent. on the sum drawn for; and all bills in like manner drawn upon persons resident out of the jurisdiction of the United States being protested, the damages shall be twenty per cent. on the sum mentioned in the said bills respectively; and all charges incidental thereto, with lawful interest as aforesaid, until the same be paid.

Sec. 6. *And be it further enacted*, That every bill of exchange, of the sum of twenty dollars and upwards, hereafter drawn in, or dated at, and from any place in this territory, upon any person or persons within the said territory, and payable at a certain number of days, weeks or months, after date or sight thereof, shall in case of non-acceptance by the drawee, when presented for acceptance; or if accepted, in case of non payment by the drawee, when due and presented for payment, be protested by a notary public, in like manner as foreign bills of exchange; and the damages on such bill shall be ten per cent. on the sum drawn for, and shall in every other respect, be regulated and governed by the same laws, customs and usages, which regulate and govern foreign bills of exchange: *Provided*, that such protest shall for want or in default of a notary public, be made by any justice of the peace, whose act in such case, shall have the same effect as if done by a notary public.

CHAP. XXV.

AN ACT *concerning Defalcation.*

(Paſſed February 28, 1799.)

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That if two or more dealing together, be indebted to each other upon bonds, bills, bargains, promises, accounts, or the like, and one of them commence an action in any court, if the defendant cannot gainsay the deed, bargain or assumption, upon which he is sued, it shall be lawful for such defendant to plead payment of all, or part of the debt, or sum demanded; and give any bond, bill, receipt or account in evidence; and if it shall appear that the defendant hath fully paid or satisfied the debt or sum demanded, the jury shall find for the defendant: and judgment shall be entered, that the plaintiff shall take nothing by his writ, and shall pay the costs. And if it shall appear that any part of the sum demanded be paid, then so much as is found to be paid, shall be defalked and deducted out of the plaintiff's demands: and the plaintiff shall have judgment for the residue only, with costs of suit. But if it appear to the jury that the plaintiff is over paid, then they shall give in their verdict for the defendant, and withal, certify to the court, how much they find the plaintiff to be indebted, or in arrear to the defendant, more than will answer the debt or sum demanded. And the sum or sums so certified, shall be recorded with the verdict, and shall be deemed a debt of record: and if the plaintiff refuse to pay the same, the defendant, for the recovery thereof, shall have a *scire facias* against the plaintiff in the said action, and have execution for the same, with the costs of that action.

Provided always, That in all cases where a tender shall be made, and full payment be offered by discount, or otherwise, in such specie as the party by contract or agreement, ought to do, and the party to whom such tender shall be made, doth refuse the same, and yet afterwards will sue for the debt or goods, so tendered, the plaintiff shall not recover any costs in such suit.

Provided also, That in all cases where the plaintiff and defendant having accounts to produce one against another, shall by themselves, or attornies or agents, consent to a rule of court, for referring the adjustment thereof to certain persons mutually chosen by them, in open court, (the award or report of such referrees being made according to the submission of the parties, approved of by the court, and entered upon the record, or roll) shall have the same effect, and be deemed and taken to be as available in law, as a verdict given by twelve men. And the party to whom any sum or sums of money are thereby awarded to be paid, shall have judgment or a *scire facias*, for the recovery thereof, as the case may require, and as is herein before directed, concerning sums found and settled by a jury.

CHAP. XXVI.

AN ACT *to prevent Suits from abating on the death of either party.*

(Paſſed May 13, 1802.)

Sec. 1 *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That when any suit shall be depending in any court in this territory, and either of the parties shall die before final judgment, the executor or administrator of such deceased, who was plaintiff, petitioner or defendant, shall have full power, (in case the cause of action by law survive) to prosecute or defend such action until final judgment: and the defendant is hereby obliged to answer thereto accordingly. And the court before whom such cause may be depending, is hereby empowered and directed to hear and determine the same; and to render judgment for or against such executor or administrator, as the case may require: and if such executor or administrator, having been duly served with a *scire facias*, or citation from the office of the clerk of the court, where such suit is depending, fifteen days before the meeting thereof, shall neglect or refuse to become a party to the suit, the court may render judgment against the estate of the deceased party, in the same manner as if the executor or administrator had voluntarily made himself a party to the suit: and the executor or administrator, who shall become a party as aforesaid, shall, upon motion to the court where the suit is depending, be entitled to a continuation of the same until the next term, or time of holding the court.

CHAP. XXVII.

AN ACT *for the Limitation of Actions, and for avoiding vexatious Law Suits.*

(Passed February 2, 1802.)

Time for commencin actions.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That all actions of trespass, *quare clausum fregit*, all actions of trespass, detinue, trover and replevin for taking away of goods and chattels; all actions of debt, founded upon any lending or contract, without specialty, or for arrearages of rent due on a parole demise, and all actions of account, and upon the case, except actions for slander, and except also such actions as concern the trade of merchandize between merchant and merchant, their factors or agents, shall be commenced within six years next after the cause of such actions shall have accrued, and not after.

Sec. 2. *And be it further enacted*, That all actions of trespass for assault, menace, battery, wounding and imprisonment, or any of them, shall be commenced and sued within two years next after the cause of such actions shall have accrued, and not after.

For words. Sec. 3. *And be it further enacted*, That every action upon the case for words, shall be commenced and sued within one year next after the words spoke, and not after: *Provided always*, That if any person or persons, who is, are, or shall be entitled to any of the actions herein before specified, is, are, or shall be at the time of any such cause of action, accruing within the age of twenty-one years, *feme covert*, or insane, then such person or persons may institute such action, so that the same be instituted within such time as is before limited, after his, her, or their coming to, or being of full age, discovert, or of sane memory.

On ſheriff's bonds. Sec. 4. *And be it further enacted*, That any prosecution hereafter to be had, or commenced upon any bond, heretofore given by any sheriff or clerk, and his security for the faithful performance of the duties of the office of sheriff or clerk, shall in no wise operate against, or in any manner affect the said securities mentioned or bound in the said bond, unless such prosecution shall be commenced within five years after the passing of this act: nor shall any prosecution, had or commenced, upon bond hereafter to be given, by any sheriff or clerk, and his securities as aforesaid, in any wise operate against, or affect the said securities, named and bound in either of the said bonds, unless such prosecution shall be commenced within five years after the date of such bond, and not after.

Sec. 5. *And be it further enacted*, That every action of debt, or covenant for rent or arrearages of rent, founded upon any lease under seal, and every action of debt, upon any single or penal bill, for the payment of money only, or upon any obligation, with condition for the payment of money only, or upon any award under the hands and seals of arbitrators, for the payment of money only, shall be commenced and sued within sixteen years after the cause of such action shall have accrued, and not after: but if any payment shall have been made on any such lease, specialty or award, within or after the said period of sixteen years, then an action, instituted on such lease, specialty or award, within sixteen years after such payment, shall be good and effectual in law, and not after: *Provided always*, That the time, during which the person, who is or shall be entitled to any of the actions specified in this section, shall have been within the age of twenty-one years, *feme covert*, or insane, shall not be taken or computed as part of the said limited period of sixteen years.

On leaſe, ſpecialty or award.

Sec. 6. *And be it further enacted*, That judgment in any court of record in this territory, may be revived by *scire facias*, or an action of debt may be brought thereon, within twenty years next after the date of such judgment, and not after.—*Provided*, That the time during which the person, who is or shall be entitled to the benefit of such judgment, shall have been under the age of twenty-one years, *feme covert*, or insane, shall not be taken or computed as part of the said limited period of twenty years.

Revival of judgment.

Sec. 7. *And be it further enacted*, That no person, who now hath, or hereafter may have, any right or title of entry unto any lands, tenements or hereditaments, shall make any entry therein, but within twenty years next after such right or title shall have accrued, and such person shall be barred from any entry afterwards: *Provided always*, That the time during which the person who hath or shall have such right or title of entry, shall have been under the age of twenty-one years, *feme covert*, or

Entry of land.

insane shall not be taken or computed as part of the same limited period of twenty years.

Perſons out of the territory.

Sec. 8. *And be it further enacted*, That if any person or persons against whom there is or shall be any cause of action, as is specified in the preceding sections of this act, is, or are, or shall be out of this territory, at the time of the cause of such action accruing, or any time during which a suit might be sustained on such cause of action, then the person or persons, who is or shall be entitled to such action, shall be at liberty to bring the same against such person or persons, after his, her, or their return into this territory: and the time of such persons absence, shall not be accounted or taken as a part of the time limited by this act.

For lands, &c.

Sec. 9. *And be it further enacted*, That from and after the passing of this act, every real, possessory, ancestral, mixed, or other action, for any lands, tenements, or hereditaments, shall be brought and instituted within thirty years next after the right or title thereto, or cause of such action accrued, and not after: *Provided always*, That the time during which the person who hath, or shall have such right or title, or cause of action, shall have been under the age of twenty-one years, *feme covert*, or insane, shall not be taken or computed part of the said limited period: also, that nothing in this act contained, shall be so construed, as in any wise to affect or interfere with the primary disposal of the vacant lands of the United States, within this territory.

Sec. 10. *And be it further enacted*, That if in any of the said actions specified in any of the preceding sections of this act, judgment be given for the plaintiff, and the same be reversed by writ of error: or if a verdict pass for the plaintiff, and upon matter alledged in arrest of judgment, the judgment be given against the plaintiff, then the said plaintiff, his or her heirs, executors or administrators, as the case shall require, may commence a new action, within one year after such judgment reversed, or given against the plaintiff, and not after.

CHAP. XXVIII.

AN ACT *respecting Conveyances.*

Conveyances to be received in evidence.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That if any deed or conveyance of lands, tenements, or hereditaments, lying and being in this territory, heretofore* made and executed; and not already acknowledged or proved, according to law, or hereafter to be made and executed, shall be acknowledged by the party or parties, who shall have executed it: or be proved by one or more of the subscribing witnesses to it, that such party or parties, signed, sealed and delivered the same, as his, her, or their voluntary act and deed, before one of the judges of the superior court of this territory; or one of the justices of any county court of that county, in which the lands, tenements, and hereditaments are situated; and if a certificate of such acknowledgment, or proof, shall be written upon, or under the said deed, or conveyance; and be signed by the person, before whom it was made; then every such deed or conveyance so acknowledged, or proved, and certified, shall be received in evidence in any court of this territory, as if the same were then and there produced and proved.

Record of same.

Sec. 2. *And be it further enacted,* That no conveyance of lands, tenements or hereditaments, lying and being in this territory, which has been made and executed, and not already acknowledged or proved, according to law; or which shall be made and executed, shall be recorded in any clerk's office in this territory; unless the execution of the same shall have first been acknowledged, or proved and certified, in the manner herein directed.

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* That is, before the 4th of March 1803, when the act was originally paſſed.

Eſtate of *feme coverts,*

Sec. 3. *And be it further enacted,* That no estate of a *feme covert* in any lands, tenements, or hereditaments, lying and being in this territory, shall hereafter pass by her deed or conveyance, without a previous acknowledgment made by her, on a private examination, apart from her husband, before one of the territorial judges, or one of the justices of the county court, that she signed, sealed and delivered the same, as her voluntary act and deed, freely, without any fear, threats, or compulsion of her husband; and a certificate thereof written on or under the said deed, or conveyance: and signed by the officer, before whom it was made; and further, that every deed or conveyance so executed and acknowledged, by a *feme covert,* and certified as aforesaid, shall release and bar her right of dower, and be good and effectual to convey the lands, tenements, and hereditaments thereby intended to be conveyed; *Provided,* That this clause shall not be construed to enable any *feme covert,* under the age of twenty-one years, to convey lands, tenements, or hereditaments, or any right of dower, interest or estate therein.

Abſent conveyors.

Sec. 4. *And be it further enacted,* That if the party who shall execute any deed or conveyance of lands, tenements or hereditaments, lying and being in this territory, or the witness thereto, reside not in this territory, but in some other territory or state in the union; then the said acknowledgment or proof, made before, and certified by the chief justice of the United States, or any associate justice of the supreme court of the United States, or a district judge of the same; or any judge or justice of the supreme or superior court of any territory or state in the union, shall be as good and effectual as if it had been made before, and certified by one of the judges of the supreme court of this territory.

Sec. 5. *And be it further enacted*, That if the party, who shall execute any deed or conveyance of lands, tenements or hereditaments, lying and being in this territory, or the witnesses thereto, reside in a foreign kingdom, state, nation, or colony; then the said acknowledgment, or proof, made before any court of law, or mayor, or other chief magistrate of any city, borough or corporation of the said foreign kingdom, state, nation or colony, in which the said party or witnesses reside, certified by the said court, mayor or chief magistrate, in the manner such acts are usually authenticated by them, or him, shall be as good and effectual as if it had been made before, and certified by one of the judges of the supreme court of this territory.

Sec. 6. *And be it further enacted*, That the two preceding sections of this act shall be construed to extend to, and comprehend acknowledgments of deeds or conveyances, which shall be made by *femes covert*, who reside out of this territory, and in any other territory, or state in the union; or in any foreign kingdom, state, nation, or colony.

Sec. 7. *And be it further enacted*, That every deed or conveyance of lands, tenements, or hereditaments, lying and being in this territory, which shall be made and executed, from and after the passing of this act,* shall be void and of no effect, against a subsequent *bona fide* purchaser or mortgagee, for a valuable consideration, not having notice thereof; unless such deed or conveyance shall be acknowledged, or proved and certified, as by this act is directed, and be lodged (within twelve calendar months) after the time of signing, sealing and delivering the same, with the clerk of the county court of the county, in which the said lands, tenements, or hereditaments are situated; to be recorded by the said clerk: *Provided nevertheless*, That such deed or conveyance, shall, as between the parties, and their heirs, be valid and operative.

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* That is after the 4th March, 1803, whe the original act was paſſed.

In case grantor or witness be dead.

Sec. 8. *And whereas*, it is necessary that provision should be made for proving deeds or conveyances of lands, tenements, or hereditaments, where the grantors and witnesses are dead; *Therefore be it enacted*, That if the grantor or witnesses of any such deed, or conveyance, be dead, or cannot be obtained, it shall be lawful for any of the officers herein before mentioned, as the case may require, to take under oath or affirmation, the examination of any person or persons, to prove the hand writing of such deceased witness or witnesses; or where such proof cannot be had, then to prove the hand writing of such grantor or grantors, which shall be certified on, or under such deed or conveyance, and signed by the officer, before whom such proof shall have been made; and such deed or conveyance, so proved and certified, shall be received in evidence, and be recorded by the clerk of the county court of the county, in which the said lands, tenements, or hereditaments are situated; in the same manner as other deeds or conveyances are directed by this act.

Records, how made.

Sec. 9. *And be it further enacted*, That the clerk of the county court shall record, in large well bound books, of good paper, to be provided for that purpose, and carefully preserve, all deeds and conveyances of lands, tenements and hereditaments, lying, and being in the said county; acknowledged or proved, and certified to have been acknowledged or proved, in manner aforesaid; which shall be delivered to him to be recorded; to which books every person shall have access, at proper seasons; and be entitled to transcript from the same, on paying the fees allowed by law.

Sec. 10. *And be it further enacted*, That it shall be the duty of the clerk to record in the said book, without delay every such deed or conveyance, with the acknowledgments, proofs and certificates, written on or under the same: and the plots of surveys, schedules and other papers therein referred to, and annexed by entering them, word for word, in a fair hand, and mentioning in the margin, or at the foot of such record, the day of the month, and the year, when the said deed or conveyance, was delivered to him, or brought to his office, to be recorded.

Duty of the clerk.

Sec. 11. *And be it further enacted*, That the said clerk shall give a receipt to the person, who shall bring any such deed, or conveyance, mentioning therein, the time when it was delivered to him, or brought to his office to be recorded: the date, the names of the parties to it, and the place where the lands, tenements, and hereditaments, therein specified, are situated; that the said clerk shall certify on, or under such deed or conveyance, the day of the month, and year when he received it, and the name or number of the book, and page or pages in which it is recorded: and shall when recorded, deliver it to the party entitled to it, or his order.

Sec. 12. *And be it further enacted*, That if any clerk shall neglect, or refuse to perform any service or duty, required of him by this act, he shall, for every neglect, or refusal, forfeit and pay two hundred dollars: to be recovered with costs, by action of debt; to be brought in the name of the county treasurer, to, and for the use of the county; and shall also be liable for all damages, which the party aggrieved, may have sustained by reason of the non-performance of such service or duty.

Penalty for neglect.

Sec. 13. *And be it further enacted,* That if the original deed or conveyance be lost or mislaid, or be destroyed by time or accident, and not in the parties power to produce; the record of such deed, or conveyance, and the transcript of such record, certified to be a true transcript by the said clerk, in whose office the record is kept, shall be received in evidence in any court in this territory; and be as good and effectual and available in law, as if the original deed or conveyance were then and there produced and proved.

Clerk to give bond.

Sec. 14. *And be it further enacted,* That every person who has received the appointment of clerk of any county of this territory, and now * acts as such, shall, on or before the first day of June next, (and every person who shall hereafter be appointed clerk of any county court of this territory, shall, before he enters upon the duties of his office,) give bond to the governor of this territory, and to his successors in office; with two sufficient freeholders in the county; to be approved of by the said court, or any three justices thereof, in the sum of three thousand dollars; with condition for the delivery of the said record, books, and other writings, entire and undefaced to his successor in office; and for the faithful performance of the duties required by this act: which bond the said court or justices shall deliver to the secretary of this territory, to be by him filed in his office; and if such clerk shall refuse or neglect to give bond as aforesaid, on or before the first day of June next; or he who may hereafter be appointed, for the space of thirty days after having received notice of his appointment, he shall be removed from office.

Sec. 15. *And be it further enacted,* That every person who shall be appointed to the clerkship of any county court, shall, on receiving the book or books, in which such deeds and conveyances are recorded, sign, and acknowledge a receipt for the same; before one of the justices of the said court: whose duty it shall be to deliver the said receipt to the secretary of the territory: to be by him filed in his office.

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* That is, on the third day of March 1803.

In caſe of the death, removal, &c. of clerk.

Sec. 16. *And be it further enacted*, That upon the death, removal, or resignation of any clerk, of any county court, the seals, minutes, papers, deeds, writings, documents, records and books of, or belonging to such office, shall be delivered to his successor in office, on the oath or affirmation of the preceding clerk: or, in case of his death, on the oath or affirmation of his executors, or administrators. And if such clerk, his executors, or administrators, shall refuse or neglect to deliver the same, on oath or affirmation, as aforesaid, being demanded by his successor in office; then every such person shall forfeit and pay five hundred dollars: to be recovered with costs, by action of debt, in the name of the county treasurer, for the use of the county.

No record to be removed.

Sec. 17. *And be it further enacted*, That no record shall be removed by writ of *subpœna*, or otherwise; before any court out of the county, in which such record is kept, when a transcript thereof may be given in evidence.

Grant, &c. effectual without attornment of tenant.

Sec. 18. *And be it further enacted*, That every grant, or conveyance of messuages, lands, tenements, and hereditaments; or of rent, or of reversion or remainder of messuages, lands, tenements, and hereditaments, shall be good and effectual without attornment of the tenant: but no tenant, who, before notice of such grant or conveyance, shall have paid the rent to the grantor, shall be prejudiced, or suffer any damage by such payment.

Sec. 19. *And be it further enacted*, That all

Warranties.

warranties, by any tenant for life, shall be void against those in remainder or reversion.

What ſhall be an express covenant.

Sec. 20. *And be it further enacted*, That in all deeds, to be recorded in pursuance of this act, whereby any estate of inheritance in fee-simple, shall hereafter be limited to the grantor or his heirs, the words, grant, bargain, sell, shall be adjudged an express covenant to the grantee; his heirs and assigns: to wit—that the grantor was seized of an indefeasible estate, in fee-simple; freed from incumbrances, done, or suffered from the grantor, (except the rents and services that may be reserved) as also for quiet enjoyment against the grantor, his heirs and assigns; unless limited in express words contained in such deed; and that the grantee, his heirs, executors, administrators, and assigns, may in any action, assign breaches, as if such covenants were expressly inserted. *Provided always*, That this law shall not extend to leases at rack-rent, or to leases, not exceeding one and twenty years; where the actual possession goes with the lease.

Forgery and perjury.

Sec. 21. *And be it further enacted*, That if any person shall forge any entry of the acknowledgments, certificates, or indorsements, whereby the freehold or inheritance of any man may be charged, he shall be liable to the penalties against forgers of false deeds.—And if any person shall perjure himself, in any of the cases herein above mentioned, he shall incur the like penalties, as if the oath or affirmation had been in any court of record.

On discharge of mortgage.

Sec. 22. *And be it further enacted*, That any mortgagee of any real or personal estates in this territory, having received full satisfaction and payment, of all such sum or sums of money, as are really due to him by such mortgage, shall, at the request of the mortgager, enter satisfaction upon the margin of the record of such mortgage, recorded in the said office; which shall forever thereafter, discharge, defeat, and release the same; and shall likewise bar all actions brought, or to be brought thereupon.

And if such mortgagee, by himself or his attorney, shall not within three months after request and tender made for his reasonable charges, repair to the said office, and there make such acknowledgment, as aforesaid, he, or she neglecting so to do, shall, for every such offence, forfeit and pay unto the party or parties aggrieved, any sum, not exceeding the mortgage money; to be recovered in any court of record, by bill, plaint, or information.

Spaniſh records, how preſerved, &c

Sec. 23.* *And whereas*, no legal provision hath been had for the safe keeping, preserving and certifying the records and papers of the office of clerks and recorders, which were kept during the administration of the Spanish government; *Be it therefore further enacted*, That the governor shall, immediately after the passing of this act, appoint and commission some person properly qualified, to keep translate, and preserve the same; And the said officer so appointed, is hereby authorised to give copies of all and singular the said papers and records, whenever thereunto required; and certify the same under his hand and official seal; for which he shall receive a fee of twenty-five cents for every hundred words; and the person so appointed, before he enters upon the exercise of his office, shall give bond and security, payable to the governor, and his successors in office; in the penal sum of five thousand dollars; conditioned for the safe keeping of the said papers and records, and the faithful discharge of his office; which bond shall be lodged in the office of the secretary of this territory; and may be put in suit by the party or parties injured, in his or their own names; and shall not become void upon the first recovery; but may from time to time be put in suit, by action of debt, until the whole penalty be recovered.

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* This ſection is taken from "An act concerning certain records therein mentioned;" paſſed February 10th, 1803.

Eſtates in land.

Sec. 24*. *And be it further enacted*, That every estate in land which shall be hereafter granted, conveyed or devised, although other words heretofore necessary to transfer an estate of inheretance be not added; shall be deemed a fee simple if a less estate be not limited by express words, or do not appear to have been granted, conveyed or devised by construction or operation of law.

CHAP. XXIX.

AN ACT *for the more easy Partition of Lands, held by Coparceners, Joint Tenants, and Tenants in Common.*

(Passed March 4, 1803.)

Coparcener, joint tenant, &c. may apply for a partition.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*; That any person being a coparcener, joint tenant, or tenant in common, in any tract or tracts of land within this territory, may at any time apply to any one or more of the judges of the superior courts of this territory; or to any three, or more of the justices of the county court, wherein such lands may lie, for a partition of such tract or tracts of land: whereupon the said judge, or justices shall ascertain the number of equal shares or parts, in which such tract or tracts were, or (at the time of such application) are held by the original coparceners, joint tenants, or tenants in common; and shall nominate three persons, not interested in the said land, as commissioners, to make partition of such tract or tracts, into as many parts or shares, as the same was originally held: and the said judge or judges, or justices, shall thereupon order an advertisement, to be inserted in one of the public news-papers of this territory; and in any such other public news-papers or places, as the judge, judges, or justices shall direct; for six weeks successively: to the following or like effect: he or they making such alterations or additions as the nature of the case may require:

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* This ſection was added by the General Aſſembly, at the late Seſſion.

By esquire, chief judge (or judges) of the superior courts of the Mississippi Territory, or justices of the county court, of the county of notice is hereby given, that on application to me (or us) by , of : who claims an undivided part of all that tract of land, (giving a description of the tract or tracts intended to be divided,) I, (or we) have nominated A, B, C, D, and E, F, commissioners to divide the said tract or tracts of land, into equal shares or parts: and unless proper objections are stated to me, (or us) at , on the of next, (which is to be at least two months from the date of the notice) the said A, B, C, D and E, F, will then be appointed commissioners, to make partition of the said lands, pursuant to an act entitled, "An act for the more easy partition of lands held by coparceners, joint tenants, and tenants in common;" passed the 4th day of March, 1803. Given under our hands, this day of

Judges, &c. to appoint commiſſioners.

Sec. 2. *And be it further enacted*, That if no objections are made before the said judge or judges, or justices, on the day appointed by him or them, for the purpose, to the persons nominated as commissioners; then the said judge or judges, or justices, shall in writing under his or their hands and seals, appoint the persons so nominated, to be commissioners, to divide the said land, pursuant to the directions prescribed in this act: and the judge or judges, or justices, shall in the said writing describe the tract or tracts to be divided; and direct the number of parts of shares, into which the same is to be allotted; but if objections are made to the persons nominated as commissioners, or any of them, the said judge or judges, or justices, shall then proceed to hear and determine such objections; and in case he or they find them well founded, then to appoint under his or their hands and seals, other fit and disinterested persons, in the room of those he or they may think proper to remove.

Commiſſioners to take oath.

Sec. 3. *And be it further enacted*, That the commissoners so appointed, before they proceed to the execution of the powers and authority vested in them by this act, shall be severally sworn or affirmed, before one of the judges of the superior court, or any justice of the county court, that they will honestly, faithfully, and impartially make the partition intended, and perform the trust, duties and services required of them by this act; to the best of their skill, knowledge and judgment.

Mode of diviſion.

Sec. 4. *And be it further enacted*, That the commissioners shall cause a survey to be made in their presence, of the tract or tracts to be divided: and shall then proceed to divide the same, into the number of parts or shares, directed by the said judge, or judges, or justices, in the writing containing their appointment; each part or share to contain one or more lots, as the commissioners may think proper; they having due regard in the partition, to the situation, quantity, quality and advantages, of each part or share; so that they may be equal in value, as nearly as may be; and if the bounds of any tract or tracts, so to be divided, shall be controverted, the commissioners are hereby directed, if such controverted part is valuable, to separate the same, from the incontroverted part; and to make partition of the tract or tracts, in such manner, that a proportion of the controverted part may be allotted to each share, as well as a portion of the incontroverted part. And the said commissioners, previous to the said survey, shall administer an oath or affirmation to the surveyor and chain-bearers, that they will well and truly perform their respective duties, honestly and impartially: which oath or affirmation, any one of the said commissioners, is hereby empowered to administer.

Allotment.

Sec. 5. *And be it further enacted*, That the said commissioners shall number the several parts or shares, by them laid off; from number one progressively; and shall in the same manner number each lot, in the several shares, if the same contain more than one lot; and shall make a true field-book specifying the bounds and numbers of each lot; and also a map or maps of the tract or tracts, on which the several shares or lots shall be laid down and numbered: and shall keep an exact and particular account of their time expended in the execution of the duties of this act; and of the money due for the same; and also of all expences accrued for surveying, or otherwise; agreeably to the directions of this act. And the said commissioners shall thereupon give notice by advertisement, in manner abovesaid, for three weeks successively, that on a certain day, by them named, not less than one month, from the date of such notification, attendance will be given, at a place therein named, and an allotment by ballot, take place, of the several parts or shares, of the tract or tracts, therein described, to the original coparceners, joint-tenants and tenants in common, their heirs or assigns.

Sec. 6. *And be it further enacted*, That on application made to the said judge or judges, or justices, by any one of the parties, to the partition intended to be made, the said judge or judges, or justices, shall attend at the time and place specified in the advertisement of the commissioners, and shall, with the assistance of the said commissioners, proceed to allot the several parts or shares of the tract or tracts intended to be divided in the manner hereinafter to be described. But if no application shall be made to the said judge or judges, or justices, for his or their attendance, then the said commissioners shall on the day appointed for the purpose, proceed in a public manner, to number as many tickets as there are shares of land, marked on the map: which shall be put in a box, and the names of the original co-parceners, joint-tenants or tenants in common, shall be put in separate tickets, into another box; when a person appointed by the said judge or judges, or justices, or commissioners, shall proceed to draw a ticket of the names, and then a ticket of the numbers, and so proceed, until all the tickets are drawn: and the share on the map bearing the number of the ticket drawn, next after drawing the ticket with the name, shall be the separate and divided share of that original co-parcener, joint-tenant, or tenant in common, his or her heirs or assigns, in the land so divided; of which balloting the said judge, or judges or justices, or commissioners, shall make a full and ample certificate, under his or their hands and seals: specifying particularly, the time, place, and manner of balloting, and the said allotment of the shares:

Precept for witneſſes.

Sec. 6. *And be it further enacted*, That the said judge, or judges, or justices, or the said commissioners, are hereby authorised, as the case may require, to issue his or their precept, or precepts: under his or their hands and seals; commanding such person or persons, who are able to give any necessary information, to come before him or them; when and where he or they may direct; to testify, by an oath or affirmation, such acts, matters, or things, as it may be necessary for the said judge or judges, or justices, or commissioners, to investigate in execution of the trust, duties and services required of them by this act; and to bring with him or them, all such patents, surveys, maps, records, deeds, or other writings, as may be necessary to be examined, by the said judge or judges, or justices, or commissioners.

Instruments to be recorded.

Sec. 8. *And be it further enacted*, That the commissioners shall transmit the writing, containing their appointment, and their oath, or affirmation of office, properly certified by the person administering the same: and the map and field; and also their accounts, to the judge or judges, or justices, from whom they received their appointment; or in case of their death, resignation or removal, then to any other judge or judges, or justices of the same court, who, after inspecting the same, shall order the said instruments, excepting the account of expences, to be recorded in the clerk's office of the superior court; or in the clerk's office of the county court, in which the lands lie; which shall be good evidence of such partition, and which partition shall be as valid and effectual in law, to divide and separate the said lands, as if the same had been made on writs of partition, according to the course of the common law.

Compensation of officers.

Sec. 9. *And be it further enacted*, That the said judge or judges shall be allowed for the services required by this act, at the rate of two dollars and fifty cents; and said justices, at the rate of two dollars a day each; while employed in the said business; and the said commissioners at the rate of two dollars a day each; and the said surveyor, at the rate of four dollars a day; and the chain-bearers and witnesses, at the rate of one dollar a day each.

In case of vacancy.

Sec. 10. *And be it further enacted*, That in case of the death, resignation, neglect or refusal, of any of the commissioners to be appointed, by virtue of this act, before the trust, duties and services, hereby required of them, shall be completed, that then the said judge or judges, or justices; or in case of his or their death, resignation or removal, any other of the judges or justices, shall by writing under his or their hands and seals, appoint another commissioner or commissioners; who shall be vested with the like powers and authority, as if he or they had been originally appointed.

Expences, by whom, and how paid.

Sec. 11. *And be it further enacted*, That after the said judge or judges, or justices, shall have ascertained the whole expence of such partition, he or they shall divide the same among the several parts or shares: which shall be paid by the persons to whom such shares were allotted, their heirs or assigns, within four weeks after the same shall be ascertained—Or, in default of payment of such expence, the said judge or judges, or justices, are hereby authorised, where no other property is to be found, to direct a sale to be made by the commissioners, of so much of those parts or shares, deficient in paying the expences, as will be sufficient to pay their respective proportion thereof: together with the expences accruing on such sale.—And the said judge or judges, or justices, shall direct the same to be sold by the said commissioners, at public auction, to the highest bidder, whereof four weeks notice shall be previously given, in one of the said news-papers, and at three of the most public places in the county in which the land lies. And the said commissioners' deed to the purchaser shall pass as good a title for the separate enjoyment of the same, as if all the arrears and claimants of shares, of the entire tract, divided, had joined therein.

Nothing herein to defeat the claim of another.

Sec. 12. *And be it further enacted*, That nothing in this act contained, shall be so construed as to tend to injure, prejudice, defeat or destroy the estate, right or title of any person or persons, claiming such tract or tracts of land, or any part thereof, or any thing therein, by title, under any other person or persons: or by title, paramount, or superior to the title of such co-parceners, joint-tenants, or tenants in common; among whom partition is to be made.

CHAP. XXX.

An Act *to prevent the Liberation of Slaves, only in cases hereafter named, and for other purposes.*

(Paſſed July 20, 1805.)

Condition on which ſlaves may be liberated.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That from and after the passing of this act, it shall not be lawful for any person or persons, holding or owning slaves, to liberate them, or any of them; unless they first prove to the satisfaction of the General Assembly, that such slave, or slaves, have done some meritorious act; either for the benefit of the said owner, or for the benefit of this territory: and in the said case, the owner or owners of the said slave or slaves, shall first give bond and security to the governor, for the time being, that the said slave or slaves, shall not become chargeable to the public.

Provided nevertheless, That all slaves, so emancipated, shall be liable to be taken by execution; to satisfy any debt, contracted by the person emancipating them; before such emancipation is made.

Perſons claiming freedom, to give ſecurity, &c.

Sec. 2. *And be it further enacted*, That any slave in this territory, claiming his or her freedom, shall proceed by petition, to the county or circuit court of the county, where his, or her master, or owner, shall reside: who, if the slave be in his, or her possession, shall enter into bond, with approved security to the Governor; in a sum, to be adjudged of by the court; that the said slave shall be forthcoming and subject to the order of the said court: and that he will abide by the judgment the said court may render in the premises: in which case, such slave shall remain in the service of his owner, or person, claiming him or her; until the determination of the suit. And if out of the possession of his or her owner, or person, claiming him or her, such slave shall enter into a recognizance, with sufficient security, to be approved of by the court, to make good to his or her owner, all such costs and damages as he shall have incurred, in consequence of the application of such slave, for the recovery of his freedom, in case he eventually fail in substantiating the same: and that he will be forthcoming and abide the sentence of the said court.

Slave to enter into recognizance.

CHAP. XXXI.

AN ACT *to prevent Frauds and Perjuries.*

(Paſſed November the 18th, 1803.)

In what caſes perſons ſhall not be charged with ſpecial promiſes & agreements. except, &c.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That no action shall be brought, whereby to charge any executor or administrator, upon any special promise, to answer any debt, or damage, out of his own estate; or whereby to charge the defendant, upon any special promise, to answer for the debt, default, or miscarriage, of another person: or to charge any person upon any agreement, made upon consideration of marriage, or upon any contract for the sale of lands, tenements or hereditaments; or the making any lease thereof, for a larger term than one year: or upon any agreement, which is not to be performed within the space of one year, from the making thereof: unless the promise, or agreement, upon which such action shall be brought, or some memorandum, or note thereof, shall be in writing; and signed by the party to be charged therewith; or some other person, by him thereunto lawfully authorised.

Fraudulent conveyances, bonds, &c. void, except, &c.

Sec. 2. *And be it further enacted*, That every gift, grant, or conveyance of lands, tenements or hereditaments, goods or chattels; or of any rent-common, or profit, out of the same, by writing or otherwise: and every bond, suit, judgment, or execution, had, or made and contrived of malice, fraud, covin, collusion or guile; to the intent or purpose to delay hinder or defraud creditors, of their just and lawful actions, suits, debts, accounts, damages, penalties, or forfeitures: or to defraud or deceive those who shall purchase the same lands, tenements or hereditaments; or any rent, profit, or commodity, out of them; shall be from henceforth deemed and taken only, as against the person or persons, his, her, or their heirs, successors, executors, administrators or assigns; and every of them; whose debts, suits, demands, estates, interests, by such guileful and cocinous devices and practices, as is aforesaid; shall or might be, in any wise disturbed, hindered, delayed, or defrauded, to be clearly and utterly void; any pretence, color, feigned consideration, expressing of use, or any other matter or thing to the contrary, notwithstanding. And moreover, if any conveyance be of goods or chattels, and be not on consideration deem-

In what caſes conveyances of goods, &c. ſhall be void.

ed valuable in the law, it shall be taken to be fraudulent within this; unless the same be by will, duly proved and recorded; or by deed in writing, acknowledged or proved. If the same deed include lands, also in such manner as conveyances of land are by law directed to be acknowledged or proved. Or, if it be of goods and chattels only, then acknowledged or proved by one or more witnesses, in the superior court, or county court, wherein one of the parties lives; within twelve months after the execution thereof. Or, unless possession shall really, and *bona fide*, remain with the donee. And in like manner, where any loan of goods and chattels shall be pretended to have been made to any person, with whom, or those claiming under him, possession shall have remained by the space of three years; without demand made and pursued by due course of law, on the part of the pretended lender; or where any reservation or limitation shall be pretended to have been made, of a use or property, by way of condition, reversion, remainder, or otherwise: in goods and chattels; the possession whereof shall have remained in another, as aforesaid, the same shall be taken as the creditors and purchasers, of the persons aforesaid, so remaining in possession, to be fraudulent within this act; and that the absolute property is with the possession; unless such loan, reservation or limitation of use, or property, were declared by will or by deed, in writing, proved and recorded as aforesaid.

Not to extend to bona fide conveyances.

Sec. 3. *And be it further enacted*, That this act shall not extend to any estate or interests, in any lands, goods, or chattels; or any rents, common; or profit out of the same; which shall be upon good consideration, and *bona fide*, lawfully conveyed or assured, to any person or persons, bodies politic, or corporate.

Sec. 4. *And be it further enacted*, That this act shall commence and be in force, from, and after the passing thereof.

CHAP. XXXII.

An Act *concerning Forcible Entries and Detainers.*

(Paſſed February 10, 1805)

Sec. 1 *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That no person shall enter upon, or into any lands, tenements or other possessions, and detain or hold the same, but where entry is given by law; and then only in a peaceable manner.

Entries maintained by force, &c. within the meaning of this act.

Sec. 2. *And be it further enacted*, That if any person shall enter upon, or into any lands, tenements or other possessions; and detain and hold the same, with force or strong hand; or with weapons; or by breaking open the doors, windows, or other part of a house; whether any person be in it or not, or by any kind of violence whatsoever; or by threatning to maim, kill or beat the party in possession; or by such words, circumstances or actions, as have a natural tendency to excite fear or apprehension of danger: or by putting out of doors, or carrying away the goods of the party in possession; or by entering peaceably, and then turning by force, the party out of possession: or frightning by threats, or other circumstances of terror:—In such case, every person so offending, shall be guilty of a forcible entry and detainer, within the meaning of this act.

Peaceable entries.

Sec. 3. *And be it further enacted*, That no person shall lawfully, or peaceably enter upon, or into any lands, tenements or other possessions, shall hold or keep the same unlawfully; and with force, or strong hand, or weapons, or violence, or menaces, or terrifying words, circumstances or actions aforesaid.

And it is hereby declared, that whatever words or circumstances, conduct or actions, will make an entry forcible; under this act, shall also make a detainer forcible.

Sec. 4. *And be it further enacted*, That the three preceding sections of this act, shall extend to, and comprehend, terms for years; and all estates, whether freehold. or less than freehold.

Tenants holdingover,&c.

Sec. 5. *And be it further enacted*, That if any tenant or tenants, for term of life or lives, year or years; or other person or persons, who are or shall be in possession of any lands, tenements, or hereditaments, by, from, or under; or by collusion with such tenant or tenants: shall wilfully, and without force, hold over any lands, tenements or hereditaments, after demand and notice in writing given for the delivery of the possession thereof, by his, her, or their landlord, or landlords, lessor, or lessors; or the person or persons, to whom the remainder or reversion of such lands, tenements or hereditaments, shall belong: his, her or their agent, or attorney, thereunto lawfully authorised: then such person or persons, so holding over, shall be guilty of an unlawful detainer.

Before whom cognizable.

Sec. 6. *And be it further enacted*, That the aforesaid forcible entries and detainers, and unlawfull detainers, are hereby made cognizable before any justice of the peace of the county, in which they are committed.

On complaint, juſtice may iſſue a venire, &c.

Sec. 7. *And be it further enacted*, That when complaint to any justice of the peace, of the proper county, shall be made in writing, and signed by the party aggrieved; his agent or attorney: specifying the lands, tenements, or other possessions, so forcibly entered upon, and detained; or forcibly or unlawfully detained; by whom, and when done; and the estate therein; it shall be the duty of the said justice to issue a precept, under his hand and seal; directed to the sheriff of the said county; commanding him to cause to come before the said justice, twelve good and lawful men, of the said county; qualified to serve as petit jurors; to enquire into, and try such forcible entry and detainer; or forcible or unlawful detainer; which precept shall be in the form, or to the effect following; that is to say—

COUNTY OF ———— ss.

Form.

The Mississippi territory, to the sheriff of the said county, greeting. Whereas complaint is made to the undersigned justice of the peace, for the said county, of a certain forcible entry or detainer; or of a certain unlawful detainer, (as the case may be) made by E. F. into the messuage, or upon the lands of C. D. in the county aforesaid.—You are therefore, hereby commanded to cause to come before the undersigned justice aforesaid, at the hour of , in the noon of the day of , twelve good and lawful men, of your county; to enquire of and try the said forcible entry and detainer, or forcible or unlawful detainer. Given under the hand and seal of the said justice, this day , in the year of our Lord one thousand, &c. L. S.

Juſtice to iſſue ſummons to defendant

Sec. 8. *And be it further enacted*, That the said justice shall issue a summons to the party complained against, in the words, or to the effect following:

COUNTY OF ———— ss.

Form.

Mississippi territory, to the sheriff of the said county, greeting. You are hereby commanded to summon E. F. of the said county, to appear before the undersigned justice of the peace, in and for the county aforesaid; at the hour of in the noon, of the day of ; to answer to, and make defence against the complaint of C. D. of a forcible entry and detainer;*made by the said E. F. into the messuage, or upon the lands of the said C. D. in the county aforesaid: and have you then and there this precept, with a return of your proceedings therein. Given under the hand and seal of the said A. B. the day of , in the year of our Lord one thousand, &c.

A. B. (L. S.)

Summons, how ſerved.

Sec. 9. *And be it further enacted*, That the said summons shall be served upon the party against whom the said complaint is made: or a copy thereof left at his usual place of abode; six entire days before the day of appearance, therein mentioned: and that such service of the said summons, in any part of this territory; as well out of the said county as in it, shall be good and effectual in law. And further, that no jury shall, by virtue of this act, be sworn to enquire of and try any forcible entry and detainer; or forcible, or unlawful detainer; where such previous notice shall not have been given, as aforesaid.

Defendant may plead not guilty.

Sec. 10. *And be it further enacted*, That the party against whom such complaint is made, may at the time of appearance, mentioned in the said summons, and before the said jury is sworn, plead not guilty, to the charge or complaint; or that he hath been three years in quiet possession, and his estate therein not ended or determined, agreeably to a subsequent clause in this act; and thereupon the parties shall be at issue; and the said justice shall proceed to swear the jury, so returned, to enquire of, and try the same. And if the said party, against whom the complaint is made, as aforesaid, does not appear, at the time specified in the said summons, or appearing, does not plead to the said

Iſſue.

In caſe he be abſent.

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* If detainer only, then ſay, of a forcible detainer.

complaint; then it shall be lawful for the said justice to proceed in the same manner, as if he had pleaded not guilty.

Sec. 11. *And be it further enacted,* That to the said jurors, and each of them, who shall be returned to enquire of, and try the said complaint, the justice shall administer the following oath or affirmation:—"You do swear, or affirm, that you will well and truly try this issue, joined between C. D. and E. F. and a true verdict give according to the evidence."

Juror's oath.

Sec. 12. *And be it further enacted,* That when the jury shall be sworn, as aforesaid, the justice shall cause the said complaint to be read to them, and then call upon the complainant to support the same.

Complaint to be read to the jury.

Sec. 13. *And be it further enacted,* That if the jury find the party against whom such complaint is exhibited, guilty, or find against his plea of possession; it shall be the duty of the said justice to record the said verdict, and to give judgment thereon, with treble costs: and also to issue a writ of restitution, directed to the sheriff, to cause the complainant to be re-seized, or re-possessed: to which shall be added, a clause, commanding the said sheriff to levy the said costs, of the goods and chattels of the offender. And for want thereof, to take the body of such offender, and safely keep him in close custody, in the common jail of the county, until he shall pay the same, or be thence delivered, by due course of law.

When jury find for plaintiff.

Juſtice to award treble coſts, &c.

Coſts, how levied.

Sec. 14. *And be it further enacted,* That if the jury find against the complainant; the said justice shall record the verdict, and give judgment accordingly, with costs: and shall issue execution, directed as aforesaid, for the said costs, against the goods and chattels: and in want thereof, against the body of the complainant.

Verdict for defendant.

Sec. 15. *And be it further enacted,* That the

Juſtice may poſtpone.

said justice may, at the request of either party, and on good reasons being assigned, postpone the said trial to any time, not exceeding fifteen days; but such postponement shall be on the payment of costs.

Juſtice to make record.

Sec. 16. *And be it further enacted*, That it shall be the duty of the said justice to enter on his minutes, or docket, true copies of the complaint, exhibited by virtue of this act, of the summons and *venire*; and their respective returns, and the names of the jurors; their verdict, and his judgment thereon: and also the names of the witnesses, and the admission of evidence objected to; and the rejection of evidence offered, the reason of such admission or rejection, and all the proceedings had before him, touching the said complaint.

Sheriff's refuſal.

Sec. 17. *And be it further enacted*, That if the sheriff of any county shall neglect, or refuse to execute or return, any precept, writ, or other process, directed and delivered to him, by virtue of this act, he shall for every such offence, forfeit and pay two hundred dollars, to the party aggrieved; to be recovered with costs, by action of debt, in any court of this territory, having cognizance thereof.

Proceedings may be removed.

Sec. 18. *And be it further enacted*, That the proceedings had, by virtue of this act, on such forcible entry and detainer, or forcible or unlawful detainer, may be removed before the circuit court of the county in which the same may have taken place, and in the district of Washington, before the superior court of the said district; and such removal shall be by writ of *certiorari*, and in no other way; and then only after judgment.

Judgments no bar to civil actions.

Sec. 19. *And be it further enacted*, That neither the said judgment, or any thing in this act, shall bar or prevent the party injured, from bringing an action of trespass, or other actions, against the aggressor, or party offending.

Sec. 20. *And be it further enacted*, That the estates, or merits of the title, shall in no wise be enquired into; or any complaint, which shall be exhibited, by virtue of this act: *Provided always*, That this act shall not extend to any person who hath had the uninterrupted occupation, or been in quiet possession of any lands or tenements, for the space of three whole years together, immediately preceding such complaint, so exhibited to the said justice; and whose estate therein is not ended or determined; but every such person may plead the same to the said complaint, which shall be tried in the manner herein before prescribed.

Exceptions.

Sec. 21. *And be it further enacted*, That every justice of the peace, before whom any prosecution shall be instituted, by virtue of this act, shall be, and he is hereby authorised to issue writ of *subpœna ad testificandum*, into any county of this territory.

Sec. 22. *And be it further enacted*, That in prosecutions under this act, the following fees shall be allowed:

Officers' fees.

TO THE JUSTICE.

	Cents.
For every summons	30
For every *venire facias*	40
For entering copies of all proceedings thereon	200
For *subpœna* for every witness	12
For swearing the jury	20
For administering every oath, or affirmation	6
For entering every verdict	12
For entering every judgment	12
For every trial	200
For return to every *certiorari*	100
TO THE SHERIFF,	
For serving every summons, and return	100
For summoning every jury, returning precepts and attending the trial	400
For executing every writ of restitution	200

For serving every execution for costs, advertising property for sale, &c. the same fees, as are, or shall be allowed, for like services, in the county courts.

TO THE JURORS AND WITNESSES.

The same fees as are, or shall be allowed to them, respectively, in civil cases, in the county courts.

TO THE ATTORNEY.

For the trial of every cause	300

Penalty on jurors and witneſſes failing to appear

Sec. 23. *And be it further enacted*, That every person summoned as a juror, or subpœnaed as a witness, who shall not appear, or appearing shall refuse to serve, or give evidence, in any prosecution, instituted by virtue of this, shall forfeit and pay, for every such default or refusal, unless some reasonable cause be assigned, such fine, not exceeding eight dollars, in the case of a juror, and not exceeding one hundred dollars in the case of a witness; as the said justice shall think proper to impose. And such justice is hereby authorised and required, to issue an execution; directed to any constable of the said county, to levy the same, of the goods and chattels of the said offender. Which fine, when recovered, shall be applied by the said justice, to the use of the said county.

Sec. 24. *And be it further enacted*, That this act, shall commence and be in force, from, and after the passing thereof.

CHAP. XXXIII.

AN ACT *to prevent Trespasses, in certain cases; and declaring what shall be deemed a Lawful Inclosure.*

Cattle, &c. breaking into enclosures.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That if any horses, mares, mules, cattle, hogs, sheep, or goats, shall break into any grounds, enclosed with a strong and sound fence, five feet high, well staked and ridered, or sufficiently locked; and so close, that the beasts breaking into the same, could not creep through; which shall be deemed a lawful fence; the owner of such horses, mares, mules, cattle, hogs, sheep, or goats, or any of them, shall for the first trespass, so committed, make reparation to the party injured, for the true value of the damage he shall sustain; and for every trespass afterwards, double damages: to be recovered with costs, in any court of record.

Condition of the fence.

Sec. 2. *And be it further enacted*, That the condition of the fence, at the time the trespass was committed, may be proved to a jury upon trial; and that upon complaint made by the party injured, before any justice of the peace of that county, wherein such trespass shall be, such justice is hereby empowered and required, to issue his order without delay, to three honest and respectable house-keepers of the neighbourhood; no ways related to the party injured; nor interested, concerning the trespass: reciting the complaint, and requiring them to view the fence, where the trespass is complained of; and to take memorandums of the same. And their testimony in such case, shall be good evidence to the jury, touching the lawfulness of the fence.

Sec. 3. *And be it further enacted*, That if any

Hurting and wounding cattle, &c.

person, injured, for want of such sufficient fence, shall hurt, wound, lame, kill, or destroy: or shall cause to be hurt, wounded, lamed, killed, or destroyed; by shooting, hunting with dogs, or otherwise, any of the kind, or breed of horses, mules, cattle, sheep, hogs, &c: he or she so offending, shall satisfy and pay the owner of the beasts, so hurt, wounded, lamed, killed, or destroyed, double damages, with costs, recoverable as aforesaid.

Provided nevertheless, That if the party liable to damages, as aforesaid, in either case, will abide by and pay, what shall be deemed reasonable, by three neighbours, indifferently chosen to assess the same, it shall be a bar against such suit.

Partition fences.

Sec. 4. *And be it further enacted*, That for the better ascertaining and regulating of partition fences, it is hereby directed, that where any neighbours shall improve lands, adjacent to each other; or where any person shall enclose any land adjoining to another's land, already fenced in, so that any part of the first person's fence becomes the partition fence between them; in both these cases, the charge of such division fence, so far as enclosed on both sides, shall be equally borne and maintained by both parties.

To which, and other ends, in this law mentioned, each county court, shall nominate, and is hereby required to nominate and appoint, so many honest and able men, as they shall think fit; for each county respectively; to view all such fences, about which any difference may happen, or arise. And the aforesaid persons, in each county respectively, shall be the sole judges of the charge to be borne by the delinquent; or by both, or either party: and of the sufficiency of all fences, whether partition fences or others. And where they judge any fence to be insufficient, they shall give notice thereof to the owners or possessors, and if any one of the said owners or possessors upon the request of the other, and due notice given by the said viewers, shall refuse to make or repair the said fence or fences: or to pay the moiety of the charge of any fence before made, being a division fence, within ten days after notice given: then, upon proof thereof before two justices of the peace of the respective county, it shall be lawful for the said justices, to order the person aggrieved, and suffering thereby, to repair the said fence, or fences; who shall be reimbursed his cost and charges, from the person so refusing to make good the said partition fence or fences: and the said costs and charges shall be levied upon the offenders' goods and chattels, under warrant from the said justice, by distress and sale thereof: the overplus, if any be, to be returned to the party offending.

Dykes, hedges, &c.

Sec. 5. *And be it further enacted*, That nothing herein contained, shall be intended to prevent or debar any person or persons, from enclosing his, or their grounds, with sufficient walls, or pallisadoes: or by dykes, hedges and ditches. All such walls and pallisadoes, to be, in height, at least five feet from the ground. And all dykes to be, at least three feet in height, from the bottom of the ditch: and planted, or set with thorn, or quickset; so that such enclosures shall fully answer and secure the several purposes meant to be answered and secured by this law.

Provided also, That such walls and pallisadoes, and dykes, hedges, and ditches, shall be subject to all provisions, inspection and restrictions respectively, to which, by this law, any other enclosure or fence, is made liable; according to the true intent and meaning thereof.

Taking away of boat or veſſel.

Sec. 6. *And be it further enacted*, That every person, who, without leave of the owner, or other person, having the same in care or charge, shall take away any boat or vessel; shall for every such offence, pay ten dollars to the owner thereof; over and above the damages such boat or other vessel shall sustain; and over and above the expence of bringing back such boat or vessel: to be recovered as aforesaid, with costs, in any court of record.

And where there shall be several offenders in one trespass, every person shall be liable for the whole penalty.

Cutting down &c. of timber

Sec. 7. *And be it further enacted*, That if any person shall cut down, carry away, or destroy any cypress, white oak, black walnut, pacarn, or cherry tree, upon any lands, not his own, without first having the consent of the owner, he shall forfeit and pay to the owner thereof, ten dollars for every such tree, so cut, carried away or destroyed: and for every other tree so cut, carried away, or destroyed, without leave, as aforesaid, the sum of three dollars; except such trees as may be cut or taken out of, or for the use of public roads.

Opening of gates, bars, &c.

Sec. 8. *And be it further enacted*, That if any person shall throw down or open any gates, bars, fence or fences, enclosing lands not his own; or shall in any manner injure any building not his own, he shall be liable to such damages as shall be assessed by a jury, with costs, to be recovered as aforesaid.

Sec. 9. *And be it further enacted*, That this act, shall commence and be in force, from, and after the passing thereof: any other law, regulation, or usage, to the contrary, notwithstanding.

CHAP. XXXIV.

AN ACT *concerning Wills and Testaments; the Settlement of Intestates' Estates; and the Duty of Executors, Administrators, and Guardians.*

OF WILLS.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That the justices of the county court of each county in this territory, shall, during the time of their holding such county court, hold and keep a court of record, to be stiled and called "The Orphans' Court of the said county," for taking the probate of wills, and granting letters of administration on the estates of persons deceased, being inhabitants of, or resident in the same county, at the time of their decease, for appointing guardians to minors, ideots, lunatics, and persons *non compos mentis*, for examining and allowing the accounts of executors, administrators or guardians: with full jurisdiction of all testamentary and other matters pertaining to an orphans' court or court of probate, in their respective counties.

Sec. 2. *And be it further enacted,* That every person of the age of twenty-one years, of sound mind, lawfully seized of any lands, tenements or hereditaments within this territory, in his or her own right, in fee simple; or for the life or lives of any other person or persons, shall have power to give, devise, and dispose of the same, by last will and testament, in writing: *Provided,* That such last will and testament be signed by the testator or testatrix, or by some person in his or her presence, and by his or her direction; and attested by three or more respectable witnesses, subscribing their names thereto, in the presence of such devisor; saving however to the widows of testators, their dower in lands, tenements, or hereditaments, so devised.

Sec. 3. *And be it further enacted*, That no nuncupative will shall be established, unless it be made in the time of the last sickness of the deceased, at his or her habitation, or where he or she had resided for the space of ten days or more, next preceding the time of making such will, except such person be taken sick from home, and die before his or her return to such habitation; nor when the value bequeathed exceeds one hundred dollars; unless it be proved that the testator called on the persons present at the time of making such will, or some of them, to take notice, or bear testimony, that such was his or her will, or to that effect.

Sec. 4. *And be it further enacted*, That no probate of any nuncupative will shall be taken, or letters testamentary granted thereon, till after the expiration of fourteen days, from the time of the decease of the testator; nor till citation hath issued to call in the widow and other person or persons principally concerned, if resident in this territory: that they may appear and constest such will, if they see cause.

Sec. 5. *And be it further enacted*, That after the expiration of six months, from the time of speaking any pretended testamentary words, no testimony shall be received, to prove the same to be a nuncupative will, unless such words, or the substance thereof, were reduced to writing within six days after speaking the same.

Sec. 6. *And be it further enacted*, That no will in writing, or bequest therein of goods and chattels, shall be revoked by any subsequent will, codicil, or declaration, unless the same be in writing: *Provided always*, That any soldier in actual military service, or mariner, or seaman, being at sea, may dispose of, and bequeath his goods and chattels, as he could have done before the passing of this act; any thing herein contained to the contrary notwithstanding.

Sec. 7. *And be it further enacted*, That when any child shall be born after the death of the father, without having any provision made in his will, every such posthumous child shall have the same share of the estate of his or her father, that such child would have had, if the father had died intestate; and such share shall be assigned to him or her accordingly; to be taken in proportion from the legatees and devisees of such will.

Sec. 8. *And be it further enacted*, That all such estate, both real and personal, as is not devised or bequeathed in the last will and testament of any person, shall be distributed in the same manner as the estate of an intestate; and the executor or executors shall administer the same accordingly.

Sec. 9. *And be it further enacted*, That if any person shall be a subscribing witness to a will, wherein any devise or bequest is made to such subscribing witness, and the will cannot be otherwise proved; the devise or bequest to such witness shall be void, and he or she compellable to appear and give testimony on the residue of the will in like manner, as if no such devise or bequest had been made. But if such witness would have been entitled to any share of the testator's estate, in case the will was not established, then so much of such share shall be saved to such witness as shall not exceed the value of the said devise and bequest, made to him or her in the said will.

Sec. 10. *And be it further enacted*, That if lands, tenements, or hereditaments shall be charged with any debt or debts, by any will or codicil; and the creditor, whose debt is so secured, shall attest the execution of such will or codicil, such creditor may notwithstanding be admitted as witness of the execution thereof.

Sec. 11. *And be it further enacted*, That the widow may in all cases, wave the provision made for her in the will of her deceased husband, and claim her dower, which shall be assigned her accordingly; in which case she shall receive no part of such provision, unless it appears plainly by the will, that the testator intended it, in addition to her dower.

Sec. 12. *And be it further enacted*, That if any testator shall have a mansion house or known place of residence, his will shall be proved in the orphan's court of the county wherein such mansion house or place of residence may be: but if he has no place of residence, and lands be devised in the will, it shall be proved in the county wherein the lands so devised are situate; or in one of them where there shall be lands so devised in several counties; and if he has no such known place of residence, and there be no lands devised, then the will may be proved either in the orphans' court of the county where the testator shall die, or that wherein his estate, or the greater part thereof shall be.

Sec. 13. *And be it further enacted*, That when the subscribing witnesses to any will shall reside out of this territory, the court to which the probate of the said will may appertain, are authorised to issue a *dedimus potestatem*, to take the testimony of such witness in proof of said will, and receive the testimony so taken, accordingly.

Sec. 14. *And be it further enacted*, That authenticated copies of wills, proved according to the laws of any of the United States, or of any country out of the limits of the United States, and touching and concerning estates within this territory, may be offered for and admitted to probate in the said courts; but such will shall be liable to be contested and controverted in the same manner as the original might have been.

Sec. 15. *And be it further enacted*, That if the court, having jurisdiction as aforesaid, shall be informed that any person hath the last will and testament of a testator, such court is hereby authorised to compel such person, by proper process, to produce the same, and all original wills, after probate thereof, shall be recorded and remain in the register's office of the court wherein they are respectively proved, except during such time as they may be in the supreme court, or superior court of the district of Washington, having been removed thither for inspection by *certiorari* or otherwise: after which they shall be returned into the said office.

OF THE COURSE OF DESCENTS.

Sec. 16. *And be it further enacted*, That when any person shall die seized of any estate of inheritance in lands, tenements, or hereditaments, not devised, the same shall descend to his or her children and their descendants, in equal parts; the descendants of the deceased child or grand child to take the share of their deceased parent, in equal parts among them; and when there shall be no children of the intestate, nor descendants of such children, then to the brothers and sisters of the intestate, and their descendants, in equal parts; the descendants of a brother or sister, of the intestate to have in equal parts among them their deceased parent's share; and where there shall be no children or descendants of them, or any of them, then to the father, if he be living; if not, to the mother of the intestate; and if there be no children of the intestate, or descendants of such children, and no brothers or sisters, or descendants of them, nor father or mother; then such estate shall descend in equal parts to the next of kin to the intestate, in equal degree, computing by the rules of the civil law; and there shall be no representation among collaterals, except with the descendants of the brothers and sisters of the intestate—and there shall in no case be a distinction between the kindred of the whole and half blood, except the kindred of the whole blood in equal degree, shall be preferred to the kindred of the half blood in the same degree; saving to the widow of the intestate, in all cases her dower. And where there shall be no children of such intestate, nor descendants of them, then the widow shall have as her dower, one half of such before mentioned estate of her deceased husband.

Sec. 17. *And be it further enacted*, That when the estate of any testator or intestate, shall be represented insolvent, and shall not be sufficient, both real and personal, to pay the just debts, the widow of such testator or intestate, shall, though there be no children or descendants to them of such testator or intestate, be endowed with one third only, of the lands, tenements, and hereditaments of her deceased husband; any thing in this act to the contrary notwithstanding.

Sec. 18. *And be it further enacted*, That where a man, having by a woman, a child, or children, shall afterwards intermarry with such woman, such child or children, if recognized by him, shall be thereby legitimated.

OF ADMINISTERING ON INTESTATES' ESTATES.

Sec. 19. *And be it further enacted*, That the granting of letters of administration of the estate of any intestate, and the hearing and determining the right of the same, shall pertain to the orphans' court of the county, in which the intestate had at the time of his or her death, a mansion house, or known place of residence. And if he or she shall have no such known place of residence, then to the orphans' court of the county where the intestate shall die; or of that wherein his or her estate, or the greater part thereof, shall be. And the court taking the probate of any will, or granting letters of administration, and the executors or administrators thereby authorised, shall have the same jurisdiction, power and authority, in and over the decedent's estate, in any part of this territory, as if it were situate in the proper county of such orphans' court.

Sec. 20. *And be it further enacted*, That if any person die intestate, or the executors named in any testament, renounce the executorship, or refuse or neglect, for the space of forty days after the death of the testator, to exhibit such statement for probate, then administration of the goods and chattels, rights and credit of such intestate, or of such testator, with the testament annexed, shall be granted to the widow, or the next of kin of such intestate or testator, or to some of them: and in case of their and each of their refusal, then to a principal creditor or creditors of such intestate or testator. And if none of them will accept thereof, then to such other proper person or persons as will accept the same.

ORPHANS' COURT.

Sec. 21. *And be it further enacted*, That the chief justice of the orphans' court of the county in which such justice resides, besides presiding in the orphans' court in the term time, is hereby empowered and required to take, receive and audit all accounts of executors, administrators and guardians; to receive wills exhibited for probate, applications for administration, inventories and appraisements; and to order such inventories and appraisements, duly made and sworn to, to be recorded: to appoint guardians to minors, of their own election; to cause to be issued all citations, and other necessary process, returnable to the next term of said court: and wherever he may deem it necessary to appoint an administrator or administrators, to collect together the goods of the deceased, for the purpose of depositing them in the hands of the said chief justice; out of which he shall pay the debts of the deceased, and be liable in law as other administrators.

And the said chief justice, after examining and auditing such accounts, and causing them to be properly stated, shall report the same for allowance to the next term of the said orphans' court, the executor, administrator or guardian giving at least forty days notice of his intention of having such account presented to the said court for allowance at such term, by posting up notice thereof in three of the most public places in the county; or advertising the same for three weeks at least, in some public news-paper in this territory; whichever, and as the said chief justice shall have directed, and the court on due proof of notice as aforesaid, and no exception being made to the report of the chief justice, may decree an allowance of the account as stated: but if any person or persons, interested in the settlement of the said account, shall by himself or attorney, appear and make exception to the report, the court shall either proceed to hear the proofs and allegations, and correct or amend the mistakes or errors in the account as reported, or refer the same to auditors, who shall examine and restate the account after hearing parties and witnesses, and make report to the next or some subsequent term of the said court, for confirmation and allowance as aforesaid.

Sec. 22. *And be it further enacted*, That the said chief justice shall cause to be kept by the register of the orphans' court, a docket, in which shall be entered in vacation, the names of all accountants, applicants for the probate of wills, or for letters of administration, or guardianship, in the order, as to priority of time, such accounts were exhibited, or applications were made; to the end that such accounts may be allowed, and applications heard and determined at the next term of the said court; and shall moreover direct all necessary notices and citations to those principally interested: if in this territory, to appear and shew cause at the next term, why such applications should not be granted; *Provided*, That wills may be proved, and letters of administration and guardianship may be granted, where no application has been made to the chief justice, in vacation.

Sec. 23. *And be it further enacted*, That the clerk of the county court of each county, shall, by virtue of his office, be register of the orphans' court of the same county; and shall take and subscribe an oath or affirmation in open court, for the faithful discharge of the duties of his office. And it shall be the duty of the said register to keep and preserve all records, files, papers and proceedings of the said court, as an orphans' court, separate and distinct from the records, files and proceedings of the county court, to record all last wills and testaments, duly proved and approved: all accounts finally allowed; all inventories and appraisements duly made and sworn to; to issue all citations, *subpœnas*, and other process, as issue of course; and all such as are directed by the court in term time, or chief justice in vacation: and to do and perform all those things that appertain to the office of a register, or clerk of the said orphans' court. And the said register's office shall be under the direction of the court in termtime, and of the said chief justice, in vacation.

Sec. 24. *And be it further enacted*, That the chief justice of the orphans' court in every county, shall have power and authority; and is hereby authorised, as often as he may deem it necessary and expedient, to call, and cause to be held, a special orphans' court, for the purpose of granting letters of administration, on any intestates' estate; or to take the probate of, and grant letters testamentary on the will of any testator: and for that purpose the said chief justice may issue his summons to any two or more justices, requiring their attendance at the usual place of holding the said orphans' court, at least seven days before the time, by him appointed, for holding such special court.

Sec. 25. *And be it further enacted*, That letters testamentary, letters of administration, and letters of guardianship shall be tested in the name of the said chief justice, and signed by the register. And all process issuing from the said court, shall be tested and signed in like manner: and bonds given by executors, (in such case as they are directed to give bonds) by administrators and guardians; and all other bonds taken in the said court, shall be made payable to the said chief justice, and his successors in office.

Sec. 26. *And be it further enacted*, That every orphans' court, granting letters testamentary, or letters of administration, shall nominate, and by warrant appoint three or more judicious and discreet persons, appraisers of the estate of the decedent, who shall return their appraisement on oath, in such time as the court shall appoint, of all the personal estate of such decedent to them shewn: which appraisement, if subscribed and sworn to by the executor or administrator, may be considered as an inventory of such part of the estate, as had theretofore come to his hands: and inventories, (which the executor or administrator in all cases shall return at the time limited by the court) and appraisements, may be given in evidence in any suit, by or against the executor or administrator; but shall not be conclusive for or against him, if it be shewn that the estate was really worth, or was, *bona fide*, sold for more or less than the appraisement.

DISPOSITION OF THE PERSONAL ESTATE.

Sec. 27. *And be it further enacted*, That when any person shall die, possessed of goods and chattels, or personal estate not bequeathed, the same shall descend to and be distributed among his or her heirs, in the same way and manner that real estates, not devised, descend by this act: *Provided*, That the goods, chattels, or personal estate of any person deceased, whether testator or intestate, shall stand chargeable with the payment of all the just debts and funeral expences of the deceased, and the charges of settling the said estate; and after the payment thereof, the surplusage, in case of intestacy, shall be decreed by the orphans' court: one third thereof to the widow of the deceased person, unless the intestate died without children, or descendants of them; in which case she shall be decreed one half thereof for ever; and the lands, tenements, and hereditaments of the testator, or intestate, shall stand chargeable with all the debts of the deceased, contracted after the passing of this act, over and above what the personal estate shall be sufficient to pay as aforesaid; saving to the widow, her dower, in all cases, as is before provided.

HOW LANDS MAY BE SOLD TO DISCHARGE DEBTS.

Sec. 28. *And be it further enacted*, That when any executor or administrator shall discover, or believe that the personal estate of his testator, or intestate, is insufficient to pay the debts of the deceased, then it shall be the duty of such executor, or administrator, as soon as may be, to make and exhibit on oath, a just and true account of the said personal estate and debts, as far as he can discover the same, to the orphans' court, or chief justice thereof: and the said court, or chief justice, shall thereupon cause a citation to issue, directing all persons interested in the lands, tenements, and hereditaments of the deceased, to appear before the orphans' court, at a certain day therein to be named; and not less than forty days after the time of issuing such citation; to shew cause why so much of the said lands, tenements or hereditaments, of the said testator, or intestate should not be sold as will be sufficient to pay his or her debts, or the residue thereof, as the case may require: which said citation shall immediately thereafter be set up in three of the most public places in the county in which such lands, tenements, or hereditaments be, for the space of thirty days; and be published for the same term of time in one of the public newspapers in this territory.

Sec. 29. *And be it further enacted*; That the orphans' court, shall, at the time specified in the said citation, or at such other time as they may then appoint, hear and examine the allegations and proofs of the said executor or administrator, and of other persons interested. And if the said court on such examination, shall find that the personal estate of such testator, or intestate, is not sufficient to pay his or her debts, the said court shall order and direct the executor, or administrator, to sell the whole if necessary, of the lands, tenements, or hereditaments of the said testator, or intestate, for the payment of his or her debts; or so much thereof as will be sufficient for that purpose; and when a part only, the said order shall specify what part. *Provided*, When any houses, lots, or lands, are so situated or circumstanced, that a part thereof cannot be sold without manifest prejudice to the heirs or devisees, the said court may, at their discretion, order the whole, or a greater part than is necessary to pay such debts, to be sold; and the overplus money arising from such sales, shall be distributed among the heirs or devisees, according to the law of descents in the former, and the will in the latter case. And the heir or devisee, whose lands, tenements, or hereditaments, so descending or devised, shall be sold as aforesaid, for the payment of the debt of the intestate or testator, may compel all others claiming or holding under such intestate or testator, to contribute in proportion to their respective interests, so as to equalise the burthen or loss.

Sec. 30. *And be it further enacted*, That every executor, administrator or guardian, empowered b the orphans' court, or supreme or superior court, in chancery, to sell the lands, tenements, and hereditaments, or any part thereof, of any testator, intestate, ward, ideot, lunatic, or person *non compos mentis*, shall before he or she obtain the order of sale, from the office of register or clerk, enter into bond, with sufficient sureties, to the chief justice of the orphans' court of the proper county, that he or she will observe the rules and directions of law, for the sale of real estates by executors, administrators or guardians; (as the case may be)and that he or she will well and truly account for the proceeds of the said sale; and that the same shall be disposed of agreeably to the rules of law.

Sec. 13. *And be it further enacted*, That the executor or administrator, who may be ordered to sell any lands, tenements, or hereditaments, of any testator or intestate, shall give notice by advertisements, put up at three or more public places in the county, where the lands, tenements, or hereditaments are situate; of the time and place of selling the same; at least forty days before the time of sale; and by publishing such advertisements in one of the public news-papers, in this territory, for three weeks successively, before such days of sale; and shall at the time and place appointed, set up the said lands, tenements, and hereditaments for sale, at public vendue: upon a credit of twelve months, from the day of sale; and strike off the same to the highest bidder; who shall give bond with satisfactory security for the amount thereof; and the executor or administrator making such sale, shall make report in writing, of all the proceedings thereon, to the next orphans' court, after such sale, *Provided*, That such executor or administrator may adjourn the said sale from time to time, not exceeding forty days in the whole.

Sec. 32. *And be it further enacted*, That the said executor or administrator shall, and is hereby authorised to make a deed or deeds to the purchaser, or purchasers, to the lands, tenements, and heriditaments so sold; which deed or deeds shall vest in such purchaser or purchasers as good and perfect an estate in the premises therein mentioned, as the heirs or devisees of such testator or intestate were seized of, or entitled to, at the time of making the said order of sale by the said orphans' court.

DISTRIBUTION OF THE ESTATES OF INSOLVENT PERSONS.

Sec. 33. *And be it further enacted*, That when the estate, both real and personal, of any person deceased, shall be insolvent, or insufficient to pay all just debts which the deceased owed, the said estate, both real and personal, shall be distributed to, and among all the creditors, in proportion to the sums to them respectively due and owing: saving that debts due for the last sickness, and necessary funeral expences of the deceased, are to be first paid: and the executor or administrator shall exhibit to the orphans' court, or chief justice thereof, (before any debts paid to any creditor, except as aforesaid) an account and statement, as is directed in the twenty-eighth section of this act; including also the lands, tenements, and hereditaments of the testator or intestate. And if it appears to the said orphans' court, that such estate is insolvent, then after ordering the lands, tenements and hereditaments of the testator or intestate, to be sold as aforesaid, they shall appoint two or more fit persons to be commissioners, with full power to receive and examine all claims of the several creditors of such estate; and the said commissioners shall cause the times and places of their meeting to attend the creditors, for receiving and examining their claims, to be made known, by causing notifications to be posted up in such public places, and published in such news-paper or papers, as the said orphans' court, or chief justice thereof shall direct: and six months, and such further time, (as the circumstances of the estate may require) not exceeding eighteen months, shall be allowed by the said court to the creditors, for bringing in and proving their claims before the said commissioners: at the end of which limited time the said commissioners shall make their report, and present on oath, a list of all the claims that shall have been laid before them; with the sums they shall allow on each respective claim, to the said orphans' court. And the said court shall order just recompense to the said commissioners, out of the deceased's estate. And the debts due for the last sickness and necessary funeral expences being first deducted, the said court shall order the residue and remainder of the estate, both real and personal, (the real estate being sold according to law) to be paid and distributed by the executor or administrator, to, and among the creditors; who shall have made out their claims with the commissioners as aforesaid; in proportion to the sums, unto them respectively due, and owing: *Provided*, That notwithstanding the report of any commissioner; the creditor, whose claim is wholly, or in part rejected; or any executor, or administrator, who may be dissatisfied with such report, on a particular claim; may, for good and sufficient cause shewn by the said creditor, executors or administrators, to the said orphans' court, have the said claims referred by the said court, to referrees; whose report and award thereon, returned to the next term of the said court, and approved of, shall be final and conclusive.

And to the end that the executor or administrator may have an opportunity to ascertain the situation of the estate of the testator or intestate, no suit or action shall be commenced or sustained against such executor or administrator, in such capacity, till after the expiration of six months, from the time of proving the will of the testator, or of granting letters of administration on the estate of the deceased. Nor shall any suit or action be commenced or sustained against him, after the estate of the testator or intestate be represented insolvent. Excepting, however, in all cases, actions for debts, due for the deceased's last sickness and funeral expences. Excepting also, that if the executor or administrator having objections to the claim on which any action (other than those last mentioned) may be brought, shall consent to have such claim settled by action at law: in such case the judgment of the court shall determine the claim, and be reported by the commissioners as such.

Every executor or administrator, after final apportionment of such distribution among the creditors of the testator or intestate, as aforesaid, shall be liable to the creditors for their respective shares in such distribution. And if any creditor shall not make out his claim with the commissioners within the time of their commission, or before referrees, or at common law, in the manner this act provides, he shall be forever barred of his debt or demand; unless such creditor shall find other estate of the deceased, not inventoried or accounted for by the executor or administrator before distribution.

Sec. 34. *And be it further enacted*, That any creditor, whose debt is not due, may exhibit it to the executor, or executors, administrator, or administrators, as if it were due; and thereupon shall be considered as a creditor under this act; and shall receive a dividend of the said testator, or intestate's estate: deducting a rebate of legal interest, for what he shall receive on such debt; to be computed from the actual payment thereof, to the time such debt would have become due.

Sec. 35. *And be it further enacted*, That executors, administrators, and guardians, shall not be compelled to plead specially to any action, or suit at law, brought against them in their said capacity; but may under the general issue, give any special matter in evidence.

CLAIMANTS MAY BE EXAMINED ON OATH.

Sec. 36. *And be it further enacted*, That the commissioners appointed to receive and examine the claims of the creditors to the estate of any person deceased, when reported insolvent, are hereby authorised and empowered, when judged expedient, by a majority of them, to examine on oath or affirmation, any creditor, touching the truth of his or her claim; and may thereupon enquire of such creditor, the truth of any writing, demand, or the charges in any account exhibited as a claim against such insolvent estate; and whether the same, and every part thereof remains actually due and unpaid; and may make such other questions relative thereto, as shall be material, and tending to discover the truth of such claim: and the said commissioners, or either of them, are hereby authorised and empowered to administer such oath or affirmation. And if any person, who shall have taken such oath or affirmation, (the same having been duly administered as aforesaid) shall thereupon willfully and corruptly make any false answer or answers, to any question or questions, material to the determination of the truth of the claim; in proof of which, such oath or affirmation shall have been taken, and shall be thereof duly convicted; he or she so offending, shall be adjudged guilty of wilful and corrupt perjury, and liable to the pains and penalties thereof.

ADMINISTRATORS' BONDS.

Sec. 37. *And be it further enacted*, That the orphans' courts of the respective counties of this territory, and every of them, shall upon the respective granting and committing of administration of the goods and chattels of persons dying intestate, take of the respective person or persons, to whom such administration shall be granted, sufficient bonds, with two or more able sureties, to the chief justice of the said court, and his successors in office, in such penalty as the said court shall deem reasonable, (respect being had to the value of the estate) with condition and form, in manner following: to wit— "The condition of this obligation is such, that if the above bound A. B. administrator of all, and singular the goods, chattels, rights and credits of C. D. deceased. do make, or cause to be made, a true and perfect inventory of all and singular the goods, chattels, rights and credits of C. D. deceased, do make or cause to be made, a true and perfect inventory of all and singular the goods, chattels and credits of the deceased; which have or shall come to the hands, possession or knowledge of the said A. B. or into the hands or possession of any other person or persons for the said A. B. and the same so made, do exhibit, or cause to be exhibited into the register's office of the orphans' court of the county of , at, or before the expiration of calender months, from the date of the above written obligation: and the same goods, chattels and credits of the said deceased, at the time of death, which any time after, come to the hands or possession of the said A. B. or into the hands or possession of any other person, or persons, for the said A. B. do well and truly administer according to law; and further do make, or cause to be made, a just and true account of administration, within calender months, from the date of the above written obligation: and all the rest and residue of the said goods, chattels and credits, which shall be found remaining upon the account of the said administration, (the same being first examined and allowed by the orphans' court, of the county aforesaid) shall deliver and pay unto such person or persons respectively, as are, or shall be by law, entitled to receive the same. And if it shall hereafter appear that any last will and testament was made by the said deceased; and the executor or executors therein named, or any other person or persons do exhibit the same into the said court; making request to have it allowed and approved; if the said A B. being thereunto required, do render and deliver the said letters of administration, (approbation of such testament being first had and made) to the said court; then the above obligation to be void, otherwise to be and remain in full force and virtue."

Sec. 38. *And be it further enacted*, That the like bonds, suited to the nature of the respective cases, shall be given by all executors, by administrators, appointed during the minority of an infant executor or administrator, by administrators appointed during the absence of the next kindred; by administrators appointed whilst a suit is pending; and by administrators who have a will annexed to their letters of administration, and by all other administrators: by whatever other name or description, they may be known or distinguished.

Sec. 39. *And be it further enacted*, That in case any bond shall become forfeited, it shall, and may be lawful for the chief justice of the orphans' court, to cause the same to be prosecuted, at the request of any party grieved by such forfeitures; and it shall not become void upon the first recovery, but may be prosecuted from time to time, at the request of any party grieved, until the whole penalty be recovered thereon; and the monies recovered upon such bond shall be applied towards making good the damages sustained by the not performing the condition thereof, in such manner as the orphans' court, by their sentence, or decree shall direct.

Sec. 40. *And be it further enacted*, That the said orphans' court shall have full power, when letters of administration shall be granted upon insufficient security, to order and direct such administrators, to give further and sufficient security, by bond, in the usual form. And if it appears upon examination, that any administrator hath embezzled, wasted, or misapplied all, or any part of the decedent's estate: or shall neglect or refuse to give bond, with security as aforesaid, the said court may forthwith revoke or repeal the letters of administration, and thereupon grant letters of administration to such person or persons, having right thereto, as will give bonds in manner and form aforesaid; who may have actions of trover, detinue, account, and the case for such goods or chattels, as come to the possession of the former administrators; and withheld, wasted, embezzled, detained, or misapplied, by any of them, and no satifaction made for the same.

PROVISIONS WHERE THE EXECUTORS ARE ABSENT OR INSOLVENT.

Sec 41. *And be it further enacted,* That if any executor of any last will and testament, or administrator of an intestate estate, residing out of this territory, at the time of taking that trust, or afterwards removing out of the said territory, shall refuse or neglect, after due notice, from the orphans' court, to render his or their accounts; and make settlement of such estate, with creditors, legatees, or heirs, or their legal representatives; or if any executor or administrator shall become insane; or if any administrator becomes otherwise incapable of, or evidently unsuitable to discharge the trust reposed in him, the said orphans' court are authorised and empowered in each and every of the said cases mentioned in this section, to grant letters of administration, with the will annexed; or otherwise as the case may require, to such person or persons as may be entitled to the same, and as to the said court shall seem meet. And the administrator thus appointed, shall have the same power and authority to administer the estate of the deceased, not administered upon by such former executor, or administrator, and be subject to the same duties, in as full and ample a manner, as if the executor or administrator, so removed, or residing out of this territory, as aforesaid, were actually dead.

EXECUTORS TO ACCOUNT WITH EACH OTHER, WITH RESIDUARY LEGATEES.

Sec. 42. *And be it further enacted,* That when two or more have letters of administration granted to them of any intestates' estate; and one or more of them take all, or the greatest part of such estate, and refuse to pay the debts or funeral expences of such intestate, or refuse to account with the other administrator: in such case, the administrator so aggrieved, may have his action of account against the other administrator or administrators; and recover such proportionable share of such estate as shall belong to him; and any executor being a residuary legatee, may have an action of account against his co-executor or executors; and recover his part of the estate in the hands of such co-executor or executors; and any other residuary legatee may have the like remedy against the executors; and any person having a legacy bequeathed in any last will and testament, may sue for, and recover the same at common law.

PROCEEDINGS ON A JOINT DEVISE OF REAL ESTATE.

Sec. 43. *And be it further enacted*, That when any person, by last will and testaments, shall devise his or her real estate, or any part thereof, to two or more devisees, not ascertaining the metes and boundaries of each devisees share: any of whom being under age, and their shares undivided, such devisees may apply to the orphans' court of the county, in which the said last will and testament was proved and recorded: and the said court on application of any one of the said devisees, may order a division thereof to be made agreeably to the true intent and meaning of the said last will and testament; and each devisees share shall be ascertained by three or five indifferent freeholders, appointed by the court; and a report made thereon, by them, or a majority of them, under their hands and seals, to the next orphans' court, after such division shall be made; such report being approved by the said court, and entered on the records thereof, shall be conclusive to all parties concerned. And when the real estate of any person dying intestate, shall descend to two or more children, or other heirs of such intestate; one or more of whom being under age; the said court on application, may order and direct a division of such real estate, agreeably to the law of descents; the metes and bounds of each heirs' share to be ascertained by three or five indifferent freeholders, appointed as aforesaid; and whose report, or that of a majority of them, returned, approved and recorded, as aforesaid, in case of devisees, shall be conclusive on all parties concerned: *Provided*, That in each case, the report of the said freeholders shall be returned under oath: *And provided also*, That the devisees or heirs in this territory, or the guardians of such as are under age, not applying for such division, shall have such notice of the time and place of the meeting of the said freeholders, for the purpose of making the said division, as the court shall direct.

OF GUARDIANS OF MINORS.

Sec. 44. *And be it further enacted*, That the chief justice of the orphans' court, in each county respectively, when, and so often as there shall be occasion, shall be, and hereby is empowered, to allow of guardians that shall be chosen by minors of fourteen years of age; and it shall be lawful for the said court to appoint guardians for such as shall be within, or under that age.

When any minor, above fourteen years of age, shall be cited by the said chief justice, to choose a guardian, and such minor shall refuse or neglect to appear, or when appearing, shall refuse to choose a guardian, or any guardian, chosen by such minor, shall be unable to give sufficient security, or shall refuse the trust: in every such case the orphans' court shall have the same power to appoint a guardian, as though such minor was under the age of fourteen years; *Provided nevertheless*, That when a minor above the age of fourteen years, shall choose a guardian, such minor may have that choice certified to the said chief justice, by a justice of the peace in the same county; which choice so certified, shall be deemed as good and valid, as if done in the presence of the said chief justice.

Sec. 45. *And be it further enacted*, That every orphans' court, appointing a guardian to a minor of his or her own election, shall take bond of such guardian, with good securities, in a sufficient sum for the faithful execution of his office and trust.

Sec. 46. *And be it further enacted*, That every gurdian in soccage, or other guardian shall, within three months after his appointment and acceptance of such office, deliver into the office of the register of the orphans' court, an inventory, on oath, of all the estate, real and personal, which he shall have received, or taken possession of, to be entered of record, and shall exhibit once in every year, and oftener, if thereunto lawfully required, an account of the product of the said estate, and of the sale and disposition of such product, and disbursements: which accounts being examined and audited by the chief justice, in the same manner as executors or administrators' accounts; and reported fairly stated and supported by vouchers, and approved of by the court, shall be recorded in the register's office.

Sec. 47. *And be it further enacted*, That any guardian, who shall not deliver in such inventory, or render such account, shall, by order of the orphans' court, to which he is answerable, be summoned, and if he remain in default, compelled to perform his duty, or be displaced. And the said court may, for any good and sufficient cause, displace a guardian; giving such guardian fourteen days previous notice, by citation; to appear and shew cause why he should not be displaced.

Sec. 48. *And be it further enacted*, That the orphans' court, when they at any time, shall know, or have cause to suspect, that the securities of a guardian, or any of them, are in failing or dubious circumstances, may require and compel such guardian to give additional security or sureties; and if he refuses or neglects so to do, may displace him.

Sec. 49. *And be it further enacted*, That if the personal estate and rents, and profits of the real estate, be not sufficient for the maintainance and education of the ward, the orphans' court, on full investigation thereof, may, from time to time, order the guardians to sell such parts of the ward's lands, tenements, and hereditaments, as they shall direct and judge adequate to his or her maintainance and education.

Sec. 50. *And be it further enacted*, That the lands, tenements, and hereditaments, so ordered to be sold, shall be advertised by the guardian, in three of the most public places in the county; and in some public news-paper in this territory, for the space of forty days, previous to the time appointed for the sale thereof; and the guardian, at the time and place so advertised, shall sell the same at public vendue, upon a credit of twelve months, after the day of sale, to the highest bidder; who shall give bond, with satisfactory security, for the amount thereof; and shall make report in writing of his proceedings thereon, to the next orphans' court, after such sale: *Provided*, That the said guardian may adjourn the said sales, from time to time, at his discretion. And the said guardian shall make a deed to the purchaser for the lands, tenements, and hereditaments, so sold: which deed shall vest in the said purchaser as good and perfect an estate in the premises, therein mentioned, as the ward was seized of, or entitled to, at the time of making the said order.

OF GUARDIANS OF PERSONS OF MENTAL INCAPACITY.

Sec. 51. *And be it further enacted*, That the orphans' court are hereby authorised and empowered, within their respective counties, on request made by the friends or relations of any ideot, lunatic, or person *non compos mentis*: or by the overseer of the poor, for the district in which such ideot, lunatic, or person *non compos mentis*, resides; or is an inhabitant, by writ, to direct the sheriff of the said county, to summon twelve good discreet and lawful men of the county, and neighbourhood of the residence of such person, to make inquisition thereto, on oath: and if the person said to be an ideot, lunatic or *non compos mentis*, shall be adjudged by such inquisition, (or the major part of them), to be incapable of taking care of him, or herself; and they shall certify the same under their hands and seals, to the orphans' court, the said court shall assign some suitable person or persons to be the guardian or guardians to such ideot, lunatic, or *non compos mentis*; directing and empowering such guardian or guardians to take care of the person and estate, both real and personal, of such ideot, lunatic, or *non compos mentis*. And the said guardian or guardians shall make a true and perfect inventory of the said estate; and return the same within the same time, and account with the orphans' court, as often and in the same manner as guardians to minors are before directed, by this act; and shall give bond and security in like manner: and the said court shall have the same power and controul over such guardian or guardians, to all intents and purposes, as over guardians of minors.

Sec. 52. *And be it further enacted*, That it shall be the duty of such guardians, to improve frugally, and without waste or destruction, the estate of the ideot, lunatic, or person *non compos mentis;* and apply the income and profits thereof to the comfortable maintainance and support of such ideot, lunatic, or *non compos mentis;* and of his household or family, (if any there be) and the said guardian or guardians are hereby empowered to collect, sue for, and recover all just debts due to such ideot, lunatic, or *non compos mentis:* and they shall also be subject to the payment of all just debts, owing by such person, which were contracted when he or she was of sound mind; and before his or her distraction or lunacy, out of the personal estate: or if that be insufficient, then out of the real estate, in such way and manner, as executors and administrators may by law discharge the debts of deceased persons, when the personal estate of such deceased is insufficient. And the said guardian and guardians shall have the same power and authority, by order of the orphans' court, to sell the lands, tenements, and hereditaments of any ideot, lunatic, or *non compos mentis;* for the purpose aforesaid; as by this act is given to executors and administrators, in similar cases; observing the same rules and restrictions. And the deed or deeds of conveyance of such guardian or guardians, shall have the same force, effect, and validity, to all intents and purposes.

Sec. 53. *And be it further enacted,* That if any such ideot, lunatic, or *non compos mentis,* shall be restored to the use of his or her reason, and sanity of mind, (and on application, the same be made to appear to the orphans' court, who shall judge thereof) the residue and remainder of his or her estate, both real and personal, shall be returned and delivered to him or her, the guardian or guardians having such reasonable allowance for their charge and trouble, as the court shall order.

Sec. 54. *And be it further enacted,* That the sale and conveyance of lands, tenements and hereditaments directed, or devised to be sold by any last will and testament, shall and may be made, by the executors, or such of them as undertake the execution of the will: if no other person be therein appointed for that purpose; or if the person so appointed, shall refuse to perform the trust, or die before he shall have completed it.

Sec 55. *And be it further enacted*, That within five years, from the time of the first probate of any will, any person interested in such will, may by bill in chancery, contest the validity of the same; and the court of chancery may thereupon direct an issue or issues in fact: to be tried by a jury as in other cases: and in all such trials, the certificate of the oath of the witnesses, at the time of taking the original probate, shall be admitted as evidence to the jury, to have such weight as they may think it deserves; but after the expiration of the said five years, the original probate of any will shall be conclusive and binding on all parties concerned, saving however to infants, *femes coverts*, persons *non compos mentis*, or absent from the territory: the like period of five years, from and after the removal of their respective disabilities.

Sec. 56. *And be it further enacted*, That if any person or persons shall be aggrieved by a definitive sentence, or judgment, or final decree of the said orphans' court, it shall be lawful for the party so aggrieved, to appeal therefrom to the next term of the supreme court in chancery, or in the district of Washington, to the superior court of the said district; and it shall be the duty of the orphans' court to allow such appeal, upon the appellants' giving bond, with good and sufficient security, approved of by the said court, and in such sum as they shall direct, to the chief justice thereof: conditioned that the appellant shall prosecute the said appeal to effect, and perform the sentence, judgment or decree, which the said supreme or superior court shall make therein, in case the cause be decided against him or her; which bond may be put in suit in the name of the said chief justice; and the amount recovered thereon, applied as the said orphans' court shall direct, among those injured by breach of the condition thereof. And the said supreme or superior court, may at their discretion, on such appeal, direct an issue or issues, in fact, to be made up and tried, as in other cases: and the judgment, sentence, or decree, which the said court may render, on any such appeal, shall be certified to the orphans' court, from which such appeal was made; and thereupon entered on the records of the said orphans' court: and made the judgment, sentence or decree thereof.

PART VI.

CRIMES, AND THE PUBLIC POLICE.

LAWS RELATING TO CRIMES, MISDEMEANORS AND THE PUBLIC POLICE.

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AN ACT *for the Punishment of Crimes and Misdemeanors.*

MURDER.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That if any person or persons shall commit the crime of wilful murder, such person or persons, on being thereof convicted, shall suffer death.

PETIT TREASON.

Sec. 2. *And be it further enacted*, That every person, liable to be prosecuted for petit treason, or as accessary thereto, shall in future be indicted, proceeded against, and punished, as is directed in other kinds of wilful murder.

MANSLAUGHTER.

Sec. 3. *And be it further enacted,* That if any person or persons shall commit the crime of manslaughter, and be thereof convicted, such person or persons shall be fined in such a sum as shall be assessed against him by the verdict of a jury and be branded on the hand with the letter M, in open court.

MAIM.

Sec. 4. *And be it further enacted,* That if any person or persons, on purpose, and of malice aforethought, shall unlawfully cut or bite off the ear, or ears; or cut out, or disable the tongue; put out an eye, while fighting, or otherwise; slit the nose or a lip; cut or bite off the nose or lip; or cut off or disable any limb, or member of any person whatsoever, shall be deemed guilty of mayhem: and in every such case, the person or persons so offending, their counsellors, aiders and abetters, shall, on conviction thereof, pay a fine, not exceeding one thousand dollars; at the discretion of the jury trying such offender, and shall stand in the pillory two hours every day: not exceeding three days.

ASSAULTS WITH A DESIGN OF KILLING, &c.

Sec. 5. *And be it further enacted*, That every person who shall assault another with intent to commit murder, rape, or robbery, shall on conviction thereof, be amerced in such a sum as shall be assessed against him or her by the verdict of a jury, and imprisoned a term, not exceeding one year: and shall also give sufficient security for good behaviour for the term of six months after the expiration of such imprisonment.

RAPE.

Sec. 6. *And be it further enacted*, That every person who shall commit the crime of rape, and be thereof convicted, shall suffer death.

MAN-STEALING.

Sec. 7. *And be it further enacted*, That if any person or persons shall hereafter be guilty of stealing or selling any free person for a slave, knowing the said person so sold to be free, and shall be thereof lawfully convicted; the person or persons so convicted, shall suffer death.

ARSON.

Sec. 8. *And be it further enacted*, That every person who shall wilfully and maliciously burn any dwelling-house, cotton-house, or out house, or building adjoining such dwelling house, cotton-house, or store, shall be deemed guilty of arson; and upon conviction thereof, shall suffer death.

BURNING OUT HOUSES, &C.

Sec. 9. *And be it further enacted*, That every person who shall burn any out-house, barn, or stable, not adjoining some dwelling-house or store; or shall burn any hovel, crib, cock, mow or stack of hay, fodder, corn or grain; or shall be accessary to either of the said offences, before the fact, shall, upon conviction thereof, pay the damages that any person may sustain thereby: and shall suffer imprisonment, not exceeding six months.

ROBBERY.

Sec. 10. *And be it further enacted*, That every person, who shall commit the crime of robbery, and be thereof convicted, shall suffer death.

BURGLARY.

Sec. 11. *And be it further enacted*, That every person, who shall commit the crime of burglary, and be thereof convicted, shall suffer death.

ACCESSORIES BEFORE THE FACT.

Sec. 12. *And be it further enacted*, That if any person, or persons, shall be accessary before the fact, to any wilful murder, rape, arson, robbery, or burglary; he, she, or they, so offending, shall upon conviction thereof, suffer death.

ACCESSORIES AFTER THE FACT.

Sec. 13. *And be it further enacted*, That if any

person or persons, shall be accessary after the fact, to any wilful murder, rape, arson, robbery, or burglary; he, she, or they, so offending, shall upon conviction thereof, be fined, not exceeding five hundred dollars, at the discretion of the jury, and shall receive thirty-nine lashes on the bare back.

LARCENY OF AND ABOVE TWENTY DOLLARS.

Sec. 14. *And be it further enacted*, That any person, convicted of larceny, to the value of twenty dollars, or upwards; or as accessary thereto; shall restore the goods or chattels so stolen, to the rightful owner or owners thereof: or shall pay to him, her, or them, the value of such goods or chattels, as shall not be restored: and moreover, shall receive thirty-nine lashes, upon his, or her bare back: and shall stand in the pillory, at the discretion of the court; so as not to exceed two hours in each day, for three days.

LARCENY UNDER TWENTY DOLLARS.

Sec. 15. *And be it further enacted*, That if any person or persons, shall feloniously take, steal, and carry away, any goods or chattels, under the value of twenty dollars, or shall be accessary thereto, before the fact; he, she, or they, being thereof legally convicted, shall be deemed guilty of petit larceny; and shall restore the goods and chattels so stolen, to the owner or owners thereof: or pay the value thereof to such owner or owners: and shall receive any number of lashes, not exceeding thirty-nine.

STEALING BONDS, NOTES, &C.

Sec. 16. *And be it further enacted*, That robbery, or simple larceny of obligations or bonds;

bills obligatory, or bills of exchange; promissory notes for the payment of money, or notes for the payment of any specific property: lottery tickets, paper bills of credit, cotton receipts, certificates granted by or under the authority of this territory, or of the United States, or of any of them: shall be punished in the same manner, both as to the principal and accessary, as robbery or simple larceny of goods and chattels.

RECEIVING STOLEN GOODS.

Sec. 17. *And be it further enacted*, That if any person or persons, shall receive or buy any goods or chattels, that shall be feloniously taken or stolen from any other person, knowing the same to have been so taken or stolen; or shall receive, harbor, or conceal any felons or thieves, knowing them to be so; he, she, or they, being of either of the said offences legally convicted, shall restore the goods so received, or pay double the value thereof; and shall stand in the pillory two hours.

SLAVE STEALING.

Sec. 18. *And be it further enacted*, That if any person or persons, shall steal any negro or mulatto slave whatsoever, out of or from the possession of the owner or overseer of such slave; the person or persons so offending, shall be and are hereby declared to be felons, and shall suffer death.

HORSE-STEALING.

Sec. 19. *And be it further enacted*, That if any person do feloniously take or steal any horse, mare or gelding, foal or filly, ass or mule; the person so offending shall restore the property so stolen or pay the value thereof, which shall be adjudged by the jury trying such offender, to the owner or owners thereof, and be fined at the discretion of the jury in a sum not exceeding five hundred dollars, and shall moreover receive thirty-nine lashes on his or her bare back, well laid on, and be branded on the face, or in the right hand as the court shall think fit with the letter T and be imprisoned for a term not exceeding twelve months.

RECEIVING STOLEN HORSES.

Sec. 20. And forasmuch as felons are much encouraged to steal horses because a great number of persons make a trade to receive and buy of such felons, the horses by them feloniously taken and also do make it their business to conceal such offenders after the said fact, knowing such felonies to be by them committed; *Be it further enacted*, That if any person or persons shall receive, or buy any horse, ass or mule, that shall have been feloniously taken or stolen from any other person, knowing the same to have been stolen, or shall harbour or conceal any horse or mule stealer, knowing him to have so offended; such person shall be deemed and taken as an accessary to such felony: and being of either of the said offences legally convicted by the testimony of one or more credible witness or witnesses, shall incur and suffer the punishment of fine, imprisonment, whipping and branding, as prescribed in the last section.

PROSECUTION OF ACCESSORIES IN HORSE STEALING.

Sec. 21. *And be it further enacted*, That if any such principal felon cannot be taken, so as to be prosecuted and convicted of any such offence; it shall and may be lawful to prosecute every such person or persons buying and receiving any such animal as aforesaid stolen by any such principal felon, knowing the same to have been stolen; and on conviction thereof such offender, shall be punished in the same manner as if the said principal felon had been previously tried and convicted.

STEALING HOGS, SHEEP, &c.

Sec. 22. *And be it further enacted*, That every person, who shall be convicted of stealing any neat cattle, hog, sheep or goat; shall, for every such animal so stolen, forfeit and pay to the owner the value thereof: and also a fine of twenty dollars, to any person suing for the same; to be recovered in any court in this territory, having cognizance thereof: and moreover, the offender shall receive on his bare back, twenty-five lashes, well laid on: for the first offence; and for every succeeding offence, he shall receive on his bare back, thirty-nine lashes well laid on; and stand in the pillory two hours.

ALTERING BRANDS AND MARKS.

Sec. 23. *And be it further enacted*, That every person, who shall be convicted of altering or defacing the mark, or brand of any horse, mare, colt, mule, ass, neat cattle, hog, sheep, or goat, not being his own property, and without the consent of the owner, shall, for every such animal, whose brand or mark shall have been so altered or defaced, forfeit and pay the same fines; to be recovered and appropriated in the same manner; and suffer the same penalties as are prescribed in the preceding section.

PUTTING ON A FALSE BRAND.

Sec. 24. *And be it further enacted*, That if any person shall be convicted of having marked or branded, with his mark or brand, any unbranded or unmarked horse, mare, colt, mule, ass, cattle, hogs, sheep, or goat; not being his own property, and without consent of the owner: the person so offending, shall forfeit and pay the sum of twenty dollars, for every animal so branded and marked, to be recovered and applied as aforesaid: *Provided nevertheless*, That if any person being in doubt, as to the right of property, shall call in two of the neighbours next adjoining the range, where such stock shall run; and in their presence, and with their approbation, mark and brand, or mark or brand any such stock as aforesaid, he shall not be liable to any of the penalties contained in this section.

OF INJURIES TO THE FREEHOLD, AND THEFTS OF THINGS BELONGING TO IT.

Sec. 25. *And be it further enacted*, That if any person shall throw down or open any bars or gates, fence or fences belonging to, or inclosing lands not his own; or shall dig up or carry away any roots, fruit or plants; or shall cut down or carry away any cotton, corn, oats, or rye; standing, lying or being on any land not his own; or shall take or carry away from any landing place, whereof he is not a proprietor or owner, any boat, water craft, or goods or wares whatever, wherein he hath no interest, without the leave of some person who has interest therein: or shall wilfully injure any building not his own; he shall for each and every such offence, forfeit and pay to this territory, a fine, not less than two, nor more than twelve dollars; to be recovered upon complaint, before any justice of the peace, in the county where the offence was committed; and shall be liable to answer in damages to the party injured.

If any person shall wilfully destroy, break, or pull down, injure or deface any public building, monument, instrument of writing, or other instrument or machine, erected or set up by lawful authority, without being duly empowered so to do; the person so offending, shall forfeit and pay for each offence, a fine, not less than twelve dollars, nor more than three hundred; to the use of this territory; to be recovered by information or indictment, in any court of record, having cognizance of the same: and be farther liable to answer in damages, as aforesaid. And if any person, on being sentenced to pay any of the fines aforesaid, shall be unable to pay the same: the court passing sentence, may order such person to be publicly whipped; not exceeding thirty-nine stripes; or be imprisoned, not exceeding six months; and to find sureties for his good behaviour for the term of one year.

When any of the trespasses before named, shall have been committed upon any buildings, or other property of a particular county, it shall be the duty of the attorney-general to institute an action, and prosecute for the damages, the county may have thereby sustained.

And it is provided, that nothing in this section shall be construed to prevent the moving of any incumbrances, which may be in the high way, under the order and direction of any person, who may be legally authorised to superintend the same; or to prevent any prosecution for a theft, where a theft is committed.

COUNTERFEITING THE COIN.

Sec. 26. *And be it further enacted*, That if any person or persons shall forge or counterfeit, or cause or procure to be forged or counterfeited; or shall willingly act or assist in the forging or counterfeiting any gold or silver coin, which now is, or hereafter may be passing, or in circulation in this territory; or shall falsely utter, pay, or offer or tender in payment, any such forged or counterfeited coin, knowing the same to be forged or counterfeited; every person so offending, and being thereof convicted, shall suffer death.

FORGERY.

Sec. 27. *And be it further enacted*, That if any person or persons shall falsely make, alter, forge, or counterfeit, or cause or procure to be falsely made, altered, forged, or counterfeited; or willingly act or assist in the false making, altering, forging or counterfeiting any letters patent, gift, grant, bond, writing obligatory, bill or order, or acceptance of such bill or order, note of the bank of the United States, or of the bank of any one of the said states, or bank of any territory of the United States, cotton receipt, promissory note, will, indenture, deed, or contract, with intention to defraud any person; or shall utter, put off, or offer, or cause to be uttered, put off, or offered in payment, or for sale any such false forged, altered or counterfeited bond, bill, order or acceptance of such bill or order, note of the bank of the United States, or of the bank of any one of the said states, or bank of any territory of the United States, cotton receipt, promissory note, will, indenture, deed or contract, with intention to defraud any person, knowing the same to be false, altered, forged, or counterfeited; and shall be thereof convicted; every such person shall suffer death.

STEALING, ALTERING AND DEFACING RECORDS.

Sec. 28. *And be it further enacted*, That if any person or persons shall feloniously steal, take away, alter, falsify or otherwise avoid any record, writ, process or other proceedings, in any of the courts of this territory, by means whereof any judgment shall be reversed, made void, or not take effect; or if any person shall acknowledge, or procure to be acknowledged, in any of the courts aforesaid, any recognizance, bail, or judgment, in the name or names of any other person or persons, not privy or consenting to the same; every such person or persons, on conviction thereof, shall pay a fine, not exceeding five hundred dollars, at the discretion of the jury; and may also at the discretion of the court, receive thirty-nine lashes: *Provided nevertheless*, That this act shall not extend to the acknowledgment of any judgment or judgments, by any attorney or attornies, duly admitted for any person or persons, against whom any such judgment, or judgments shall be had or given.

ALTERING RECORDS WITH INTENT TO DEFRAUD.

Sec. 29. *And be it further enacted*, That every person who shall deface, alter, falsify or embezzle, any record, enrolment, or matter, or instrument recorded, or registry thereof, with intent to defraud, shall upon conviction thereof, pay a fine not exceeding one thousand dollars, at the discretion of the jury; and be imprisoned a term, not exceeding two years.

PERJURY AND SUBORNATION OF PERJURY.

Sec. 30. *And be it further enacted*, That if any person or persons shall wilfully and corruptly commit perjury, or shall by any means procure any person to commit corrupt and wilful perjury, on his or her oath or affirmation, in any suit, controversy, matter or cause, depending in any of the courts of this territory, or in any deposition or affidavit taken, or made pursuant to the laws of this territory; every person so offending, and being thereof convicted, shall pay a fine, not exceeding three hundred dollars, at the discretion of the jury; and stand in the pillory two hours: and shall have thirty-nine lashes on the bare back, and be thereafter rendered incapable of giving testimony in any of the courts of this territory, until such time as the judgment against such offender be reversed.

OF INDICTMENTS FOR PERJURY.

Sec. 31. *And be it further enacted*, That in all prosecutions against any person for wilful and corrupt perjury, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what court, or before whom the oath or affirmation was taken; averring such court, person or persons, to have competent authority to administer the same: together with a proper averment or averments, to falsify the matter or matters, wherein the perjury or perjuries, is, or are assigned; without setting forth the bill, answer, information, indictment, declaration, or any part of any record or proceeding, either in law or equity, other than as aforesaid: and without setting forth the commission, or authority of the court, or the commission or authority of the person or persons, before whom the perjury was committed.

OF INDICTMENTS FOR SUBORNATION OF PERJURY.

Sec. 32. *And be it further enacted*, That in all prosecutions for subornation of perjury, or for corrupt bargaining or contracting with others to commit wilful and corrupt perjury; it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth the bill, answer, information, indictment or declaration, or any part of the record or proceeding, either in law or equity, and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed, or was agreed or promised to be committed.

CONCEALMENT OF FELONY.

Sec. 33. *And be it further enacted*, That if any person having knowledge of the actual commission of the crimes of wilful murder, rape, arson, robbery, burglary or larceny, shall conceal, and not as soon as may be, disclose and make known the same to some of the judges, or other person or persons, in civil authority, within this territory: on conviction thereof, such person or persons shall be adjudged guilty of misprision of felony; and shall pay a fine, not exceeding three hundred dollars, at the discretion of the jury; and may also at the discretion of the court, receive any number of lashes, not exceeding thirty-nine.

OBSTRUCTING PROCESS.

Sec. 34. *And be it further enacted*, That if any person or persons, shall knowingly, or wilfully obstruct, resist, or oppose any officer of this territory, in serving or attempting to serve, or execute any mesne process, or warrant, or any rule or order, of any of the courts of this territory: or any other legal or judicial writ, or process, whatsoever; or shall assault, beat or wound any officer, or other person, duly authorised, in serving or executing any writ, rule, order, process, or warrant aforesaid; every person so knowingly and wilfully offending in the premises, shall, on conviction thereof, be imprisoned not exceeding six months; and fined, not exceeding two hundred dollars, at the discretion of the jury trying such offender.

RESCUE.

Sec. 35. *And be it further enacted*, That if any

person or persons shall, by force, set at liberty, or rescue any person or persons, who shall be found guilty of any capital offence, or rescue any person convicted of any capital crime, going to execution, or during execution; every person so offending, and being thereof convicted, shall suffer death.—And if any person or persons, shall by force, set at liberty, or rescue any person or persons, who, before conviction, shall stand committed for any capital offence; or if any person or persons shall, by force, set at liberty, or rescue any person committed for, or convicted of any other offence, every person so offending, shall on conviction thereof, be fined, not exceeding three hundred dollars, at the discretion of a jury: and be imprisoned not exceeding nine months.

CONVEYING TO A PRISONER INSTRUMENTS FOR ESCAPING.

Sec. 36. *And be it further enacted*, That if any person or persons shall, directly, or indirectly, by any ways or means, howsoever, without the knowledge or privity of the keeper, convey any instrument, tool, or other thing whatsoever, to any prisoner, or into any prison, whereby any prisoner might break the prison, or work himself or herself unlawfully out of the same; every person so offending, shall forfeit and pay such fine, as by the direction of the court, shall be imposed; not exceeding one hundred dollars, according to the nature of the cause of the prisoner's commitment: or suffer such corporal punishment, not exceeding forty stripes; as the court shall inflict. And if it shall so happen, that any prisoner shall make his or her escape, by means of any instrument or tool, or other thing, conveyed without the knowledge and privity of the keeper; the person so conveying the same, shall be liable to pay all such sums of money, for which the prisoner stood committed; if on civil process: and shall also have inflicted upon him or her, all such punishment, to which the escaped prisoner would be liable, if a criminal; and had been convicted of the charge, for which he or she had been committed: unless such prisoner would be liable to capital punishment; in which case, the person assisting in such escape, shall be punished by fine, imprisonment, whipping, pillory, or sitting on the gallows, with a rope about his or her neck: or any one or more of the said punishments, as the court, having cognizance thereof, shall think proper to inflict.

SUFFERING A PRISONER TO ESCAPE.

Sec. 37. *And be it further enacted*, That if any gaoler or prison-keeper, shall voluntarily suffer any prisoner committed unto him, to escape, he shall suffer and undergo the like pains, punishments, and penalties, as the prisoner, so escaping, should, or ought by law, to have suffered and undergone, for the crime or crimes wherewith he stood charged, if he had been convicted thereof. And if any gaoler or prison-keeper, shall, through negligence, suffer any prisoner accused of any crime, to escape, he shall pay such fine, as the justices of the court, before whom he is convicted, shall in their discretion, inflict; according to the nature of the offence, for which the escaped prisoner stood committed.

Provided nevertheless, That if any person, who may be committed for debt, shall violently escape from prison, without connivance of the sheriff or keeper, and the sheriff, gaoler, or prison-keeper, shall within three months next after such escape, recover the prisoner so escaped, and re-commit him to prison; then the sheriff shall be liable to nothing farther than the costs of such action or actions, as may have been commenced against him for such escape.

POLYGAMY.

Sec. 38. *And be it further enacted*, That if any person or persons, being married, shall again intermarry with any person or persons, the former husband or wife being alive; he, she, or they, so offending, shall, on conviction thereof, pay a fine not exceeding five hundred dollars, at the discretion of the jury and be imprisoned a term, not exceeding one year, and receive thirty-nine lashes on his or her bare back.

Provided nevertheless, That this section shall not extend to any person or persons whose husband or wife shall absent him or herself, one from the other, by the space of five years; the one of them not knowing the other to be living within that time; nor to any person or persons, who shall be at the time of such marriage divorced by competent authority; or to any person or persons, whose former marriage shall have been declared or rendered void by sentence of competent authority, or by settlement made before legal authority; or to any person or persons, for, or by reason of any former marriage, had or made within the age of consent.

CHALLENGING TO FIGHT A DUEL.

Sec. 39. *And be it further enacted*, That whereas from a false sense of honor, the inhuman, injurious, and detestable practice of duelling, has been too often and unhappily resorted to, as a mode of adjusting or settling differences of small magnitude, between individuals: *And whereas*, This barbarous and savage conduct has of late obtained a great degree of prevalence, to the destruction of the lives of some valuable members of society, and involving the feelings of others, who from principle, and respect for the laws of their country, will not engage in this pernicious practice: *BE it therefore enacted by* *the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That from and after the passing of this act, if any person or persons shall deliver, offer or send any challenge, in writing, verbally, or otherwise, to fight a duel; or shall accept such challenge; or shall fight a duel: and neither of the parties be killed; or shall be the bearer of such challenge, knowing the same to be such, the person or persons, so offending, their aiders or abettors, and each of them, shall on conviction thereof, be fined in the sum of one thousand dollars, and be imprisoned twelve calendar months; and be rendered incapable of holding any office of honor, profit or trust, under the government of this territory, for and during the term of five years, from the time of such conviction.

PROMOTING DUELLING.

Sec. 40. *And be it further enacted,* That if any person or persons, residing or being in this territory, shall promote, concert, plan, or in any manner encourage the fighting of a duel, between persons residing or being in this territory; whether the same duel be fought, or not within this territory or elsewhere, such person or persons shall be subject to the pains and penalties prescribed in the preceding section of this act.

FIGHTING A DUEL.

Sec. 41. *And be it further enacted,* That if any person residing or being in this territory, do hereafter actually fight a duel, and either of the combatants be killed, the survivor, with such other person or persons, who may have aided or assisted in the said duel, shall be deemed guilty of wilful murder, and on conviction thereof, shall suffer death.

PREVENTATIVES.

Sec. 42 *And whereas* persons guilty of the crimes specified in the foregoing section, escape punishment through want of sufficient testimony, occasioned by the secret combination of the parties concerned; *Be it therefore further enacted*, That when other evidence cannot be had of offences committed against this act, it shall and may be lawful for any justice of the peace, upon his own knowledge, or strong suspicion of such offences, or on credible information thereof, to him given, on oath, or otherwise, to issue a summons, or at his discretion, a warrant, in the nature of a capias, against any person or persons, suspected to be concerned in such offences; which summons or warrant shall be returnable before one or more justices of the peace; who are hereby empowered, if necessary, to issue interrogatories, in the premises, to such person or persons, and to compel them to answer the same, fully, upon oath: and in case of their refusal, to cause them to be confined until they shall comply: *Provided*, That the person or persons so answering, fully, and satisfactorily, shall be wholly and entirely released and discharged from all manner of punishment, for such offence or offences as he or they may be implicated in, by his or their answers, as aforesaid. And the justice before whom such testimony is delivered, shall take recognizance or recognizances of such person or persons, binding him or them to appear at the succeeding superior court, for the district or county in which the offender or offenders shall reside, as in other cases.

NEGLECT OF DUTY IN PUBLIC OFFICERS.

Sec. 43. *And be it further enacted*, That each and every justice of the peace, and attorney-general, in this territory, is hereby enjoined to carry this act into strict execution, and prosecute all offenders within the meaning thereof. And if any justice of the peace or attorney-general, having knowledge or information of any offence committed against this act, neglect to perform the several duties required of them respectively, such neglect of duty is hereby declared to be a misdemeanor; and for which such justice or attorney-general shall be removed from office; and be rendered incapable of holding any office of honour, trust or profit under the government of this territory for and during the term of two years thereafter.

COLLECTION OF FINES.

Sec. 44. *And be it further enacted*, That all fines and forfeitures, which shall be incurred under this act, shall be collected by the sheriff of the particular county, where such offender or offenders reside; and paid by him, into the territorial treasury.

OTHER OFFENCES TO BE PUNISHED AS AT COMMON LAW.

Sec. 45. *And be it further enacted*, That every other felony, misdemeanor, or offence whatsoever, not provided for by this or some other act of the General Assembly, shall be punished as heretofore, by the common law.

LIBELS.

Sec. 46. *And be it further enacted*, That if any person shall be prosecuted by information, or indictment, for the writing or publishing any libel, it shall be lawful for the defendant, upon the trial of the cause, to give in evidence, in his defence, the truth of the matter contained in the publication, charged as a libel; and the jury who shall try the cause, shall have a right to determine the law and the fact, under the direction of the court, as in other cases.

PRIVILEGES OF THE ACCUSED.

Sec. 47. *And be it further enacted*, That any person, who shall be indicted for any capital crime, shall have a copy of the indictment, and a list of the jury, which are to pass on his or her trial, delivered unto him or her at least two entire days before he or she shall be tried for the same: and that every person accused and indicted, shall be allowed and admitted to make his full defence, by counsel, learned in the law. And the court before whom such person shall be tried, or some judge thereof, shall immediately upon his or her request, assign to such person, such counsel, not exceeding two, as such person shall desire; to whom such counsel shall have free access at all seasonable hours. And every such person or persons, so accused and indicted, shall be admitted in his her or their defence, to make any proof he, she or they can produce, by lawful witness or witnesses; and shall have the like process to compel his, her or their witnesses to appear on his, her or their trial, as is usually granted to compel witnesses to appear on the prosecution against him, her or them.

RESTRICTION OF CHALLENGES.

Sec. 48. *And be it further enacted*, That no person indicted for a capital offence, shall be allowed to challenge, peremptorily, above the number of twenty persons of the jury, and if any person shall desire to challenge above the number aforesaid, the same shall be received for lawful cause shewn only. And if any person on his or her arraignment, for any capital or inferior offence, shall stand mute, or will not answer to the indictment, the plea of *not* *guilty*, shall be entered for him or her, on the record; and the court shall in either of the said cases, proceed to trial of the person standing mute, as if he or she had pleaded not guilty: and for trial, put him or herself upon the country, and render judgment accordingly.

LIMITATION OF PROSECUTIONS.

Sec. 49. *And be it further enacted*, That no person or persons shall be prosecuted, tried, or punished for any offence, wilful murder, arson, forgery, counterfeiting, and larceny excepted; unless the indictment, presentment or information, for the same, be found or exhibited within one year, next after the offence shall be done or committed. Nor shall any person be prosecuted for any fine or forfeiture under a penal statute, unless the prosecution for the same shall be instituted within twelve months from the time of incurring the fine, or forfeiture aforesaid: *Provided*, that nothing herein contained, shall extend to any person or persons absconding or fleeing from justice.

EXECUTION.

Sec. 50. *And be it further enacted*, That the manner of inflicting the punishment of death, shall be by hanging the person convicted, by the neck, until dead.

COSTS AND RESTITUTION.

Sec. 51. *And be it further enacted*, That the lands, tenements, goods and chattels of any person or persons, convicted of any crime or misdemeanor, shall be liable and subject, in preference to all other demands whatever, (except dower and jointure) in the first place, to the discharge of the expences incurred by the territory or county, in the prosecution and conviction of such offender;

and in the next place, to what restitution or reparation may be adjudged to the injured party; and if the estate of the person or persons, shall be incompetent to the said purposes; then in that case, after deducting the expences of prosecution and conviction, as aforesaid, the surplus, if any, shall go towards making reparation to the party injured.

PROSECUTOR MAY PAY COSTS IN CERTAIN CASES.

Sec 52. *And be it further enacted*, That if the territory shall fail in the prosecution of any inferior offence, the court may at their discretion, and on motion of the attorney general, if the prosecution appear to be frivolous or malicious, order the prosecutor to pay costs.

THE JURY TO DETERMINE THE FINE.

Sec. 53. *And be it further enacted*, That in all prosecutions for offences of either a capital or inferior nature, no person shall on conviction be fined in a greater sum than shall be assessed by the verdict of a jury: and in all cases, where the defendant or defendants to any indictment whatsoever shall plead guilty the court before whom the prosecution is depending shall forthwith impannel a jury to assess the fine which shall be inflicted on such defendant or defendants.

RECOGNIZANCES.

Sec. 54. *And be it further enacted*, That all recognizances hereafter taken for any breach of the peace, for the prosecution of offenders against the laws, or in any case, whatsoever, where a recognizance may be necessary, shall be made payable to the governor, for the time being, and his successors in office.

BENEFIT OF CLERGY ABOLISHED.

Sec. 55. *And be it further enacted*, That sentence of death shall in no case be pronounced against any person or persons convicted of either of the crimes herein before mentioned, unless the punishment prescribed for the commission of such crimes is declared to be death by this act; and all laws, customs or usages relating to, or in any manner respecting the benefit of clergy, are hereby abrogated and made null to all intents and purposes.

OF IMPRISONMENT FOR FINES.

Sec. 56. *And be it further enacted*, That all fines and forfeitures which may be recovered by virtue of this act, shall be collected and paid by the sheriff of the county where the offender is tried, into the territorial treasury, and accounted for in the same manner, that public taxes are or may be accounted for, and whenever the court before whom any offender or offenders may be tried and fined by the verdict of a jury, shall be of opinion that such offender or offenders, is or are unable to pay the fine so inflicted, and that his or her, or their imprisonment will operate to encrease the public expenditure; the said court are hereby authorised and required, to discharge him, her or them from custody.

OF THE TRIAL OF SLAVES.

Sec. 57. *And be it further enacted*, That the justices of the quorum of every county or corporation in this territory, shall be justices of oyer and terminer for trying slaves charged with treason, felony or other crimes or misdemeaners, which trials shall be by three of the quorum aforesaid, who shall call to their assistance to preside in such trial two justices of the peace of the county where such offence may be committed, without juries, upon legal evidence, at such times as the sheriffs or other officers shall appoint, not being less than five nor more than ten days after the offenders shall have been committed to jail, no slave shall be condemned in any such case, unless all of the justices sitting upon his or her trial, shall agree in opinion that the prisoner is guilty, after allowing him or her counsel in his or her defence, whose fee amounting to ten dollars, shall be paid by the owner of the slave. *Provided always*, That when judgment of death shall be passed upon any such offender, there shall be twenty days at least between the time of passing judgment and the day of execution, except in cases of conspiracy, insurrection or rebellion.

Sec. 58. *And be it further enacted*, That no person having interest in a slave, shall sit upon the trial of such slave.

EVIDENCE.

Sec. 59. And for a declaration of what shall be deemed legal evidence in such cases, *Be it further enacted*, That the court may take for evidence the confession of the offender, the oath of one or more credible witnesses, or such testimony of negroes or mulattoes, bond or free, with pregnant circumstances, as to them shall seem convincing.

PUNISHMENT OF NEGROES.

Sec. 60. *And be it further enacted*, That when any negro or mulatto whatsoever, shall be convicted of any offence, not punishable with death by this act, judgment of death shall not be given against him or her upon such conviction, but he or she shall be burnt in the hand by the sheriff in open court, or suffer such other and corporal punishment as the court shall think fit to inflict, except where he or she once had the benefit of this act, and in those cases, such negro or mulatto shall suffer death:

FALSE TESTIMONY.

Sec. 61. *And be it further enacted*, That when any negro or mulatto shall be found upon the proof made to any county or corporation of this territory, to have given a false testimony, every such offender shall without further trial, be ordered by the said court to have one ear nailed to the pillory, and there stand for the space of one hour; and then the said ear to be cut off, and thereafter the other ear nailed in like manner and cut off at the expiration of one other hour, and moreover to receive thirty-nine lashes on his or her bare back, well laid on, at the public whipping-post, or such other punishment as the court shall think proper, not extending to life or limb: and at every such trial of slaves for capital offences, the person first named in the commission, then sitting, shall before the examination of any negro or mulatto, charge such evidence to declare the truth, which charge shall be the words following, to wit—"You are brought hither as a witness, and by the direction of the law I am to tell you, before you give your evidence, that you must tell the truth, the whole truth, and nothing but the truth; and if it be found hereafter that you tell a lie, and give false testimony in this matter, you must for so doing have both your ears nailed to the pillory, and cut off, and receive thirty-nine lashes on your bare back, well laid on, at the common whipping-post."

CHAP. II.

AN ACT *to provide for the more effectual Administration of Justice.*

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That all persons shall be bailable, unless for capital offences, where the proof shall be evident or the presumption great, by any justice of the peace, before whom the offender may be brought, before commitment, and by any one of the territorial judges afterwards. Bail.

Sec. 2. *And be it further enacted*, That whenever any person, charged with any felonious offence, shall be apprehended and brought before any justice of the peace; such justice shall, before he bails such prisoner, if the offence be bailable, and before he commits him to gaol, if it be not bailable, or if the prisoner cannot procure bail, take his examination, and the information on oath of those that bring him, of the fact and the circumstances thereof, and shall immediately put the same, or so much thereof as may be material, into writing: and he shall certify such examination and information, together with the bailment, at the next circuit or superior court of the county or district, in which such justice may reside, on pain of being fined by such court for neglect herein. Juſtice to examine, &c.

Sec. 3. *And be it further enacted*, That such justice shall have power to bind by recognizance, all such as do declare any thing material relating to the offence, to appear at the next circuit or superior court, as the case may be, whether at its ordinary session or at an extraordinary one, then and there to give evidence concerning the same, and shall certify such recognizance in like manner, on pain of being fined as aforesaid. Witneſſes.

Sec. 4. *And be it further enacted*, That it shall be the duty of the justice of the peace when taking the information of witnesses as aforesaid, and likewise of the coroner when taking an inquisition in a case of murder or manslaughter, to inform the party accused if he should be then in custody, that he will be permitted to ask the witness any proper questions, and such justice or coroner shall com- Privileges of the accuſed.

mit the same to writing, together with the answers, and shall read over the information given by such witnesses to the said witnesses, and correct the same if necessary, by making such additions thereto as the witnesses may respectively require, before he shall certify the same.

Eſcapes from one county to another.

Sec. 5. *And be it further enacted*, That if any person against whom a warrant shall be issued, shall escape, go into, reside or be in any other county than that in which such justice may reside; any justice of the peace where such person may be, upon proof on oath of the hand writing of the justice granting such warrant, shall indorse his name thereon, which shall be a sufficient authority to the person to whom such warrant may be directed to execute the same within the jurisdiction of such justice.

Reward for apprehending criminals.

Sec. 6. *And be it further enacted*, That whosoever shall apprehend and take one or more persons, guilty of burglary, or of stealing any horse or mule, or of robbing in any high-way or road in this territory, and shall prosecute him or them till he or they be convicted of any such offence, shall for every such offender so convicted, receive, within one month after such conviction and demand thereof made, a warrant on the territorial treasury for the sum of fifty dollars, which demand shall be accompanied by a certificate to the auditor of public accounts, from the court before whom such felon or felons shall be convicted. And in case any dispute should arise between the persons so apprehending any of the said thieves or robbers, touching their right to the said reward; then such court shall by their said certificate, direct and appoint the said reward to be paid in such shares and proportions as to them shall seem just and reasonable.

Sec. 7. *And be it further enacted*, That the person or persons so apprehending any offender, shall be competent to give testimony on the trial of such offender.

Poiſoning, &c. in one county and death in another.

Sec. 8. *And be it further enacted,* That where any person shall be feloniously stricken or poisoned in one county, and shall die of the same stroke or poisoning, in another county, that then an indictment thereof found by jurors of the county or district where the death shall happen, whether it be found before the coroner or justice upon the sight of such dead body, or before any court having authority to enquire of such offences, shall be as good and effectual in the law, as if the stroke or poisoning had been committed and done in the same county where the party died, or where such indictment was found.

Poiſoning, &c. in the territory, and death out of it, and vice verſa.

Sec. 9. *And be it further enacted,* That where any person shall be feloniously stricken or poisoned at any place out of this territory, and shall die of the same stroke or poisoning within this territory; or where any person shall be feloniously stricken or poisoned at any place within this territory, and shall die of the same stroke or poisoning at any place out of this territory, an indictment thereof found by the jurors of the county or district, in which such death, stroke or poisoning, shall happen respectively as aforesaid, whether before the coroner or justice upon a view of the dead body, or before any court having authority to enquire of murders; shall be as good and effectual in law, against the principals and accessaries, as if such felonious stroke and death, or poisoning and death, and the offence of such accessaries, had happened in the same county where such indictment shall be found: and the circuit or superior court holden in such county shall and may proceed upon the same in all points, as they might or ought to do, in case such stroke, poisoning or death, had happened in the same county where such indictment shall be found.

Property stolen out of the Territory.

Sec. 10. *And be it further enacted*, That any person or persons who shall steal or otherwise feloniously take any horse, or other goods and chattels, from any person in any place out of this territory, and shall afterwards have the same, or any part of such goods and chattels, in his or their possession within this territory, may be indicted for horse stealing or other larceny, in whatever county he or they may be so found with such horse or other goods and chattels as aforesaid; and any receiver of stolen property, knowing the same to have been stolen, may be indicted in any county in which he shall have such stolen property in his possession, although the same may have been originally taken beyond the limits of this territory.

Search warrant.

Sec. 11. *And be it further enacted*, That it shall be lawful for any one justice of the peace, upon complaint made before him upon oath, that there is reason to suspect that stolen goods are knowingly concealed in any dwelling-house, out-house, garden, yard, croft or other place or places, to issue a warrant under his hand, commanding every such dwelling-house or place to be searched in the day time; and the person knowingly concealing such stolen goods or any part thereof, or in whose custody the same or any part thereof shall be found, such person being privy thereto, shall be deemed guilty of a misdemeanor, and shall be brought before any justice of the peace for the county or place, and made amenable to answer for the same, by like warrant of any such justice, and on conviction shall be punished by fine and imprisonment or whipping, as the court shall think fit to inflict, although the principal felon be not before convicted of the said felony, and whether such felon be amenable to justice or not.

Sec. 12. *And whereas* it sometimes happens that the buyers and receivers of stolen goods convey away and conceal the principal felons, so that they cannot be convicted of such felony, and thereby such buyers and receivers, escape all manner of punishment, which has greatly encouraged the buying and receiving of such stolen goods: *Be it therefore enacted*, That it shall and may be lawful to prosecute and punish every such person and persons, buying or receiving any stolen goods, knowing the same to be stolen, as for a misdemeanor, to be punished by fine and imprisonment, although the principal offender cannot be taken or be not convicted before of the said felony, which shall exempt the offender from being punished as accessary, if the principal shall be afterwards convicted.

Receivers of stolen goods.

Sec. 13. *And be it further enacted*, That it shall be the duty of every sheriff and other person having authority or power of keeping a gaol, or of prisoners for felony, to certify the names of all such prisoners in his keeping and of every prisoner to him committed for any criminal offence, at the next court having cognizance thereof, there to be calendered before the judges for the deliverance of the said gaol, whereby they may proceed to make deliverance of such prisoners according to law.

Duty of jailer.

Sec. 14. *And be it further enacted*, That whenever on any criminal prosecution, it shall appear to the satisfaction of the court, that there can be no reasonable expectation, that the family of the prisoner will be brought up in honest courses; it shall be the duty of such court to certify the same to the overseers of the poor for the district in which such family may reside, provided the same be within the limits of the jurisdiction of such court; and the said overseers shall thereupon bind out the children of such person, to honest, respectable and virtuous citizens, for the same periods of time and under the same conditions for their instruction and maintenance, as in other cases of orphans and poor chil-

Family of criminal.

dren, and return the indentures to the next county court; and likewise certify to the said superior court their doings therein.

Legal errors not to bar trial.

Sec. 15. *And be it further enacted*, That no person accused of any criminal offence, shall be set at liberty and absolutely discharged before his trial on account of any mere irregularity or informality in the warrant of commitment, nor after conviction on account of any legal error or imperfection in his indictment: but the same proceedings shall be had again as though he had never been arraigned: nor shall the words "force and arms, or the words "against the peace," or the words "contrary to the form of the statute," be regarded as necessary in any indictment or information for any trespass or any other offence whatsoever, nor shall the parties indicted have any advantage by writ of error or plea or otherwise, for the want of these or the like words, but such indictments and informations shall be judged as effectual to all intents and purposes, as indictments and informations having the same words in them.

Penalty for compoſition with offender

Sec. 16. *And be it further enacted*, That no informer or plaintiff other than the party grieved, shall or may compound or agree with any person or persons, that shall offend or that shall be surmised to offend any penal statute, for an offence committed or pretended to be committed, but after answer made in court unto the information or suit, in that behalf exhibited or prosecuted; nor after answer but by the order or consent of the court, in which the same information or suit shall be depending; on pain that whosoever shall offend in making composition, or other misdemeanor contrary to the true intent and meaning of this provision, or shall by colour or pretence of process, or without process, upon colour or pretence of any matter of offence against any penal law, make any composition or take any money, reward or promise of reward for himself or to the use of any other, without order or consent of the court aforesaid, and shall be thereof convicted, shall stand on the pillory for any time not exceeding six hours, and for ever be disabled to pursue, or be plaintiff or informer in any suit or information, upon any statute popular or penal, and shall also forfeit and pay into the territorial treasury any sum not exceeding forty dollars.

Collusion.

Sec. 17. *And be it further enacted*, That if any person hereafter, sue with good faith any action popular, and any defendant in the same action plead any manner of recovery by action popular, in bar of the said action, or that he before time barred any plaintiff in any action popular; then the plaintiff in the action taken with good faith, may aver that the said recovery was had by collusion, or that the said plaintiff was barred by collusion: and if such collusion be lawfully found, the plaintiff who shall sue with good faith, shall have recovery according to the nature of the action, and execution upon the same, in like manner and effect, as if no such action aforesaid had been had: *Provided always*, That no plaintiff shall be permitted to aver any collusion in any action popular, where the point of the same action, or else the collusion has been once tried or lawfully found with the plaintiff or against him, by trial of twelve men, and not otherwise.

CHAP. III.

AN ACT *directing the manner of employing proper Guards, for the safe keeping of Criminals, in the several Counties of this Territory, and for other purposes.*

Sec. 1 *BE it enacted by the Legislative Council and House of Representatives of the Missis-*

sippi Territory, in General Assembly convened, That when any person or persons, accused of treason, felony, or other crime or misdemeanor, shall be committed to the jail of any county in this territory, and the sheriff shall have cause to suspect such person or persons will attempt to escape; such sheriff is hereby empowered and required, to apply to any justice of the quorum of the county where such person or persons may be confined, who shall, on such application, issue his warrant, directed to the said sheriff, for a sufficient guard for securing such prisoner or prisoners, so long as he, she, or they continue in said jail; to be paid by the public, after the rate of fifty cents for each man per day.

Sheriff may apply for a guard.

Sec. 2. *And be it further enacted,* That all guards, heretofore employed by the sheriffs of the respective counties in this territory, for the safe keeping of prisoners charged with criminal offences, shall present their respective accounts to the legislature of this territory, and if upon examination such accounts shall appears to be reasonable, the same shall be allowed and paid by the public, out of the territorial treasury.

Former guards.

Sec. 3. *And be it further enacted,* This act shall commence and be in force, from, and after the passage thereof.

JOHN ELLIS *Speaker of the House of Representatives.*
JOSHUA BAKER, *President of the Legislative Council.*

Approved—*February* 6, 1807.
ROBERT WILLIAMS, *Governor of the Mississippi Territory.*

CHAP. IV.

AN ACT *for the more effectual Preservation of Personal Liberty.*

PROCEEDINGS IN VACATION TO OBTAIN ENLARGEMENT.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That if any person shall be committed or detained in vacation time and out of term for any criminal or supposed criminal matter, unless for treason or felony, punishable with death, the species whereof is plainly and fully set forth in the warrant of commitment; it shall be lawful for such person or for any one in his behalf, to complain to one of the territorial judges who may be or reside nearest to the place of his confinement, and to request by a written petition, attested and subscribed by one or more witnesses, that such prisoner may be brought before such judge for the purpose of his examining into the cause of the commitment or detention of such prisoner: and it shall thereupon be the duty of such judge, upon a view of a copy of the warrant of commitment or detainer, or otherwise, upon oath that such copy was denied to be given, by the person in whose custody the prisoner is detained, to issue the WRIT OF LIBERTY, (commonly called a writ of *habeas corpus*) requiring the production of the prisoner, together with the cause of his detention, directed to the person in whose custody the prisoner is detained, and returnable immediately before the said judge at his place of residence, or at such other place as he shall appoint.

DUTY OF THE SHERIFF, GAOLER, &c.

Sec. 2. *And be it further enacted*, That whenever the said writ shall, by any person, be served upon the officer, sheriff, gaoler, keeper or other person whatsoever, to whom the same shall be directed, by being brought to him, or by being left with any of his under officers or deputies, at the gaol or place where the prisoner is detained; he or some of his under officers or deputies, shall within three days after the service thereof as aforesaid, or at such time as may be expressly directed in the said writ, make return of such writ, and bring, or cause to be brought, the body of the prisoner unto the judge before whom the said writ is made returnable, or in case of his absence, unto any other of the territorial judges, and shall then likewise, especially and fully certify, the true cause or causes of the commitment and detainer of the said prisoner, and when he was committed. But if the place of the commitment of such prisoner be beyond the distance of twenty miles from the place to which such writ shall be made returnable, and not above one hundred miles; then such writ shall be executed within ten days, and if above the distance of one hundred miles, then within twenty days. *Provided always*, That such officer or other person shall not be obliged to execute such writ until such prisoner or other person in his behalf shall pay or tender the charges of bringing the said prisoner before such judge, at the rate of twelve and a half cents per mile, and until such prisoner shall give his bond to pay the same for carrying him back, if he should be remanded, and that he will not make any escape by the way.

CLERK TO DRAW UP A PETITION.

Sec. 3. *And be it further enacted*, That when any prisoner as aforesaid, or other person in his behalf, shall personally or by writing, apply to the clerk of the superior court of the county or district in which such prisoner may be confined, and shall pay or tender to him fifty cents for so doing, such clerk shall without delay draw up a petition for and in the name of such prisoner or other person, requesting that he may be brought before the judge to whom the same is addressed, for the purposes herein before expressed, and which shall be subscribed and attested as aforesaid.

DUTY OF THE JUDGE.

Sec. 4. *And be it further enacted*, That the judge before whom any prisoner shall be so brought shall within two days discharge the prisoner from imprisonment, taking his or her recognizance, with one or more surety or sureties, in any sum according to his discretion, having regard to the circumstances of the prisoner and the nature of the offence, for his or her appearance at the next court where the offence may be properly cognizable, and then shall certify the said writ, with the return thereof, and the said recognizances into the court where such appearance is to be made, unless it shall appear to the said judge, that the party so committed, is detained upon legal process, order or warrant, for such matter or offences, for which by the law the prisoner is not bailable: and that the said judge may according to the true intent and meaning of this act, be enabled by investigating the truth of the circumstances of the case, to determine whether according to law, the said prisoner ought to be bailed, remanded or discharged; the return may, before or after it is filed, be amended by leave of the said judge, and all suggestions made against it, that thereby material facts may be ascertained.

PROCEEDINGS IN TERM TIME.

Sec. 5. *And be it further enacted*, That in term time it shall and may be lawful for any prisoner as aforesaid, in manner aforesaid, to move and obtain his or her *writ of liberty* as aforesaid, out of the supreme court, or out of the circuit or superior court of the county or district in which he or she may be imprisoned; whereupon proceedings shall be had as aforesaid: and if any such person shall have wilfully neglected by the space of two terms of such court, after his imprisonment to pray for such writ; it shall not be granted in vacation in pursuance of this act.

WHEN A PRISONER MAY BE DISCHARGED IF NOT TRIED.

Sec. 6. *And be it further enacted*, That if any person shall be committed for treason or felony and shall not be indicted and tried, at or before the next stated term of the court where the offence is properly cognizable, it shall be lawful for the said court, upon the last day of the term to set at liberty such prisoner upon bail, unless it appear to them upon oath or affirmation that the witnesses for the territory mentioning their names, could not be produced; and if such prisoner shall not be indicted and tried the second stated term after his or her commitment, unless the delay happen on the application or with the assent of the defendant, he or she shall be discharged from imprisonment.

EXCEPTIONS.

Sec. 7. *And be it further enacted*, That nothing in this act shall extend to discharge out of prison any person guilty, or charged with any offence committed in any other part of the United States, and who agreeably to the laws of congress, ought to be delivered up to the executive power of such state, nor any person charged with debt or other action, or with process in any civil cause, or suffering imprisonment under lawful judgment founded on a conviction of some criminal offence.

RESTRICTIONS.

Sec. 8. And that no person may avoid his trial by obtaining a *writ of liberty* from some judge residing at a distance from the court where he ought to be tried: *Be it further enacted*, That no person shall be removed out of the county, upon any writ granted in pursuance of this act, within fifteen days next preceding the term of the court where the offence with which he stands charged is properly cognizable, but upon such writ shall be brought before the udge or judges thereof, who shall thereupon do what to justice shall appertain, and after such court the person detained may have his *writ of liberty*, according to this act.

PENALTY ON A JUDGE, SHERIFF, GAOLER AND FOR DISOBEDIENCE TO THIS ACT.

Sec. 9. *And be it further enacted*, That if any judge being complained to as aforesaid, shall (upon view of the copy of the warrant of commitment or detainer, or upon oath or affirmation that such copy was refused) refuse or neglect to award any *writ of liberty* by this act required to be granted; or if any officer, sheriff, gaoler, keeper, or other person to whom any such writ shall be directed as aforesaid, or any of his under officers or deputies shall refuse or neglect to make the returns aforesaid, or to bring the body of the prisoner, according to the command of the said writ. within the respective times aforesaid; or if upon demand by the prisoner or some person in his or her behalf, shall refuse to deliver, or within six hours after demand, shall not deliver to the prisoner or person so demanding a true copy or copies of the warrant or warrants of commitment and detainer of such prisoner; such judge, officer, sheriff, gaoler, keeper, under officer, deputy or other person so offending, shall forfeit to the prisoner or party grieved the sum of five hundred dollars, in the case of the judge; and the sum of three hundred dollars in the case of a sheriff or or other person, to be recovered by the said prisoner or party grieved, his or her executors or administrators, against such offender, by action of debt, suit, bill, plaint or information in any court of record.

PENALTY FOR RE-COMMITTING A PERSON SET AT LARGE.

Sec. 10. *And be it further enacted*, That no person who shall be delivered or set at large upon any such writ, shall thereafter at any time, be again committed or imprisoned for the same offence by any person or persons whatsoever, other than by the legal order and process of such court wherein he or she shall be bound by recognizance to appear, or other court having jurisdiction of the cause;—and if any other person or persons shall knowingly, contrary to this act, re-commit or imprison, or knowingly procure or cause to be recommitted or imprisoned for the same offence or supposed offence, any person delivered or set at large as aforesaid, or be knowingly aiding or assisting therein; then he or they shall forfeit to the prisoner or party grieved, any pretence of variation in the warrant or warrants of commitment notwithstanding, the sum of five hundred dollars, to be recovered by the prisoner or party grieved in manner aforesaid.

PRISONER NOT TO BE REMOVED BUT BY SOME LEGAL WRIT.

Sec. 11. *And be it further enacted*, That no person committed to any prison or in custody for any criminal or supposed criminal matter, shall be removed from the said prison or custody, into any other prison, or into the custody of any other person, unless it be by the writ of liberty, or some other legal writ, or where the prisoner is delivered to the constable or other inferior officer to be carried to some common gaol, or where any person is sent by any judge or justice, having proper authority, to some common work-house or house of correction, or where the prisoner is removed from one place to another within the same county, in order to his or her trial or discharge in due course of law, or in case of sudden fire or infection or other necessity: and if any person or persons shall after such commitment as aforesaid, make out, sign, countersign and issue, any warrant or warrants for such removal, except as before excepted, then he or they shall forfeit to the prisoner or party grieved, two hundred dollars, to be recovered by the prisoner or party grieved in manner aforesaid.

MODE OF RELIEF THE SAME ON WHATEVER PRETENCE A PERSON MAY BE CONFINED.

Sec. 12. *And be it further enacted*, That all the provisions herein before made for the awarding and granting of writs of liberty, and proceeding thereon, in case of commitment or detainer for any criminal or supposed criminal matter, shall in like manner extend to all cases were any person, shall be confined or restrained of his or her liberty under any color or pretence whatsoever: and upon oath or affirmation made by such person, or by any other in his or her behalf, of any actual confinement or restraint, and that such confinement or restraint, to the best of the knowledge and belief of the person so applying, is not by virtue of any commitment or detainer for any criminal or supposed criminal matter, a writ of liberty directed to the person or persons so confining or restraining the party as aforesaid, shall be awarded and granted in the same manner and under the same penalties, to be recovered from the same persons, as is herein before directed: and the court or judge before whom the party so confined or restrained shall be brought, shall after the return made proceed in the same manner as is herein before prescribed, to examine into the facts relating to the case, and into the cause of such confinement or restraint, and thereupon either bail, or remand or discharge the party so brought, as to justice shall appertain.

PENALTY FOR DISOBEDIENCE.

Sec. 13. *And be it further enacted*, That whensoever any writ of liberty, shall be served upon the person or persons, confining or restraining the party in the manner herein last mentioned, by being brought to such person or persons, or by being left at the place where the party shall be so confined or restrained; the person or persons so confining or restraining such party, shall make return of such writ, and bring or cause to be brought the body of such party according to the command thereof, within the respective times limited and under the provisions herein before prescribed: and every such person refusing or neglecting so to make return of such writ, or to bring or cause to be brought the body of the party, according to the command thereof, within the times respectively limited, and under the provisions herein before prescribed, shal be guilty of a contempt of the court, under the authority of which or of the judge thereof, the said writ shall have issued, and shall also forfeit for the first offence, to the party grieved, two hundred dollars, and for the second offence four hundred dollars, to be recovered by him or her, or his or her executors or administrators, against the offender, in manner aforesaid.

LIMITATION OF ACTIONS UNDER THIS ACT.

Sec. 14. *And be it further enacted,* That no person shall be sued, impleaded, molested or troubled, for any offence against this act, unless such person be sued or impleaded for the same, within two years after the time wherein the said offence shall have been committed, in case the party grieved shall not be then in prison or confined or restrained as aforesaid: and if the said party shall be then in prison or so confined or restrained; then within two years after the decease of the person imprisoned or so confined or restrained, or his or her delivery out of prison, or from such confinement or restraint.

PLEAS OF THE DEFENDANT.

Sec. 15. *And be it further enacted,* That the defendant or defendants, in or upon any action, suit, bill, plaint or information, for any offence against this act, may plead the general issue, and give the special matter in evidence.

CHAP. V.

AN ACT *for the Suppression of Vice and Immorality.*

(Paſſed March 12, 1803.)

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That no

Violating the Sabbath.

wordly business, or employment, ordinary, or servile work; works of necessity or charity excepted: nor shooting, sporting, hunting, gaming, racing, fiddling, or other music; for the sake of merriment; nor any kind of playing, sports, pastimes, or diversions, shall be done, performed, or practised, by any person or persons, within this territory; on the Christian sabbath, or first day of the week; commonly called Sunday. And that every person, being of the age of fourteen years or upwards, offending in the premises, shall for every such offence, forfeit and pay the sum of two dollars. And that no merchant or shop-keeper, or other person, shall keep open store, or dispose of any wares, or merchandise, goods, or chattels, on the first day of the week, commonly called Sunday; or sell or barter the same upon pain, that every person, so offending, shall forfeit and pay the sum of twenty dollars, for every such offence. And if any person offending in any of the premises aforesaid, shall be thereof convicted, before any justice of the peace, for the county wherein the offence shall have been committed; upon the view of the said justice, or confession of the party offending, or proof of any witness, or witnesses, upon oath or affirmation: then the said justice, before whom such conviction shall be had, shall direct and send his warrant, under his hand and seal, to some constable of the county where the offence shall have been committed: commanding him to levy the said forfeitures and penalties, by distress, and sale of the goods and chattels of such offenders. And in case no such distress can be had, then every such offender, shall, by a warrant, under the hand and seal of the said justice, be set publicly in the stocks, for any space of time, not exceeding four hours.

Sec. 2. *And be it further enacted,* That no waggoner, carter, drayman, drover, butcher, or any of his slaves or servants, shall ply or travel, with his waggon, carts, or drays; or shall load or unload any goods, wares, merchandise, or produce; or drive cattle, sheep, or swine, in any part of this territory, on the first day of the week, called Sunday; under the penalty of five dollars; to be levied, recovered and applied, in manner and form, as is directed by this act.

Serving process on the Sabbath.

Sec. 3. *And be it further enacted*, That no person or persons, upon the first day of the week, called Sunday, shall serve or execute, or cause to be served or executed, any writ, process, warrant, order, judgment or decree; except in criminal cases, or for a breach of the peace: but that the service of every such writ, process, order, warrant, judgment or decree, shall be void to all intents and purposes whatsoever: and the person or persons so serving or executing the same, shall be as liable to the suit of the party aggrieved; and to answer damages to him for doing thereof, as if he or they had done the same without any writ, process, warrant, order, judgment, or decree; *Provided*, That if information shall be made by the oaths of two reputable persons, to any justice of the peace or magistrate, of any corporate town; that they have good reason to believe, that any person liable to have any such process, warrant, order, judgment or decree, served upon him, intends to withdraw himself, and escape from this territory, under cover and protection of the said first day of the week, commonly called Sunday—in that case it shall be lawful for any officer, duly authorised; being furnished with a certificate of such information, upon oath, as aforesaid, under the hand of the justice of the peace, or magistrate, as aforesaid, to serve, or execute such process, warrant, order, judgment or decree, on the said first day of the week; which shall be as valid, and effectually done, to all legal intents and purposes, as if the same had been done on any other day of the week.

Profane ſwearing.

Sec. 4. *And be it further enacted*, That if any person shall profanely swear or curse, in the hearing of any justice; or shall be convicted of profanely cursing or swearing: by the oath of one or more witnesses; or confession of the party, before any justice; every such offender shall forfeit and pay, for every such offence, the sum of fifty cents.

Intoxication.

Sec. 5. *And be it further enacted*, That if any person, convicted of drunkenness, by view of any justice, confession of the party, or oath of one or more witness or witnesses; such person ſo convicted, shall for every such offence, forfeit and pay, one dollar.

Exhibitions on the Sabbath,

Sec. 6. *And be it further enacted*, That if any person or persons, whatsoever, shall shew forth, exhibit, act, represent, or perform: or cause to be shewn forth, acted, represented or performed, any interludes, farces or plays, of any kind; or any games, tricks, juggling, slight of hand, or feats of dexterity and agility of body; or any bear-baiting or bull baiting, or any such like shew, or exhibitions, whatsoever, on the said first day of the week. Every person so offending, and thereof convicted, before any justice of the peace of the county, where the offence shall have been committed, shall, for every such offence, forfeit and pay the sum of fifteen dollars.

Diſturbing places of worſhip.

Sec. 7. *And be it further enacted*, That if any person or persons, whatsoever, shall wilfully, and of purpose, disquiet, interrupt, or disturb any assembly of people, met for religious worship, either by making a noise, or by rude or indecent behaviour, or profane discourse; whether within the place of worship, or out of it: so near the same as to disturb the order and solemnity of the meeting. Then every person so offending, and being thereof convicted, before any justice of the peace of the said county, shall, for every such offence, forfeit and pay the sum of five dollars.

Diſtreſs.

Sec. 8. *And be it further enacted*, That in case any person, who shall be convicted of any of the offences mentioned in the fourth, fifth, sixth and seventh sections of this act, shall not immediately pay down their respective sums, so forfeited, with the charges of such conviction; then the said justice, before whom such conviction shall be had, shall direct and send his warrant, under his hand and seal, to some constable of the county, where the offence shall have been committed, commanding him to levy the said forfeitures or penalties, together with the charges, by distress and sale of the goods and chattels of such offenders. And in case no such distress can be had, then every such offender, shall, by warrant, under the hand and seal of the said justice, be set publicly in the stocks, for any space of time, not exceeding four hours.

Conviction.

Sec. 9. *And be it further enacted*, That every justice of the peace, shall, immediately, on information, given upon oath or affirmation, of any person whatsoever, cause the offender or offenders against this act, to appear before him. And upon such information being proved, as aforesaid, shall convict such offender and offenders, in such a manner, as in, and by this act, is prescribed.

Fines, how applied.

Sec. 10. *And be it further enacted*, That it shall be the duty of the justices, before whom such conviction shall be had, to take and receive all such forfeitures and fines, as may become due, by virtue of this act; and pay one half to the informer, and the other half to the treasurer of the county, wherein the offence was committed; for the use of the poor thereof.

Sec. 11. *And be it further enacted*, That all and every justice and justices of the peace, for the county wherein any such offence shall be committed, may, and they are hereby respectively authorised and required to put this act into execution, against any person or persons, within their respective jurisdictions.

Sec. 12. *And be it further enacted,* That no person shall be prosecuted for any offence against this act, unless the same be proved or prosecuted within ten days after the commission of such offence.

CHAP. VI.

An Act *to prevent the evil Practice of Gaming.*

Promiſes, agreements, &c. void, if for money won.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That all promises, agreements, notes, bills, bonds, or other contracts, judgments, mortgages, or other securities, or other conveyances whatsoever, made, signed, given, granted, drawn, or entered or executed by any person or persons whatever, after the passing of this act, where the whole or any part of the consideration of such promise, agreement, conveyance, or security, shall be for money, or other valuable thing whatsoever, nor laid or betted at cards, dice, or at any gaming table, commonly called A B C, or E O, or billiards, or any other table, known or distinguished by any other letters, or by any figures, or Rowley Powley table, or any Rouge and Noir, or at any faro bank, or at any other gaming table or bank of the same or the like kind, under any other denomination whatsoever, or at any horse race, cock fighting, or at any other sport or pastime, or on any wager whatsoever, or for reimbursing or repaying any money knowingly lent or advanced at the time or place of such play, horse racing or cock fighting or other sport or pastime, to any person or persons so gaming, betting or wagering, or shall at such time and place, so play, bet or wager, shall be utterly void and of none effect, to all intents and purposes whatsoever, any law, custom, or usage to the contrary thereof, in any wise notwithstanding.

Gaming, &c. how puniſhable.

Sec. 2. *And be it further enacted*, That if any person or persons shall at any time after the passing of this act, play at any tavern, inn, store for the retailing spiritous liquors, or in any other public house, or in any street, highway, or in any other open place, at any game or games, with cards or dice, or at any gaming table commonly called A B C or E O, or any gaming table known or distinguished by any other letter or by any figures, or rowley powley table, or at any rouge and noir, or at any faro bank, or at any other gaming table or bout of the same, or the like kind, under any other denomination whatever, or shall bet on the sides or hand of such as do game; any justice of the peace or of the quorum, shall upon information, upon oath made before him, fine all and every such person so playing, betting or wagering, in the sum of ten dollars, to be recovered before any such justice with costs, and be applied to the use of the person giving information of the same, and the said justice shall also, on the like information made against any keeper or keepers of such taverns, inns, retail houses or public places, fine each and every of them, in the sum of twenty dollars for every such offence, one half to the informer and the other half to the use of the territory; and when any person shall be fined as aforesaid, and be unable or refuse to pay the same, agreeably to the requisitions of this act, he or they so failing or refusing, shall be by said justice, committed to the common jail of said county, there to remain without bail or mainprize for the space of ten days; and the territory shall stand charged with the costs; if the person or persons so convicted is not in possession of so much property as will be sufficient to satisfy the same; or the said justice may on the same information made as aforesaid before him, bind over to appear at the next circuit court of the county in which such play shall be carried on, all and singular the said persons who shall so play or bet, and shall require him or them to give security for his or their appearance thereat, and on his or their failure to give security, shall commit him or them to the common jail of the said county, and shall also bind over the keeper or keepers of such taverns, inns, stores public places, to appear at the ensuing circuit court; and every person so playing, upon being convicted thereof upon indictment, shall forfeit a sum not exceeding fifty dollars; and every person keeping such tavern, inn, retail store or public place, shall upon being convicted thereof, upon indictment, forfeit a sum not exceeding one hundred dollars, for each and every such offence.

Vagrants under this act.

Sec. 3. *And be it further enacted*, That all and every keeper or keepers, or exhibiter or exhibiters of either of the gaming tables commonly called A B C, or E O, or any other table distinguished and known by any other letter or by figure, or billiard table, or rowley powley table, or rouge and noir, or of a faro bank, or of any other gaming table or bank of the same or the like kind, under any other denomination whatever, shall be deemed and rated as vagrants: and moreover it shall and may be lawful for any justice of the peace, or of the quorum, and they are hereby required by warrant under his or their hands, to order any such gaming table to be seized and publicly burnt or destroyed.

Sec. 4. *And be it further enacted*, That the judge or judges of the respective circuit courts of this territory, shall constantly give this act in charge to the grand juries of their courts, at the term such grand juries shall be sworn.

Judges to give this act in charge.

Sec. 5. *And be it further enacted*, That all acts and parts of acts coming within the purview and meaning of this act, be and the same are hereby repealed.

JOHN ELLIS *Speaker of the House of Representatives.*
JOSHUA BAKER, *President of the Legislative Council.*

Approved—*February* 4, 1807.
ROBERT WILLIAMS, *Governor of the Mississippi Territory.*

CHAP. VII.

AN ACT *to restrain Idle and Disorderly Persons.*
(Paſſed December 5, 1801.)

WHEREAS it becomes necessary to suppress all wandering, disorderly and idle persons:—

Sec. 1. *BE it therefore enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That every person, whether male or female: who has no apparent means of subsistence; shall apply himself to some honest calling for his support; and if any person shall neglect so to do, or shall be found sauntering about, and endeavoring to maintain himself by gambling or other undue means; it shall and may be lawful for any justice of the peace, of the county wherein such person may be found; on due proof made, to issue his warrant for such offending person: and cause him to be brought before such justice; who is hereby empowered, on conviction, to demand security for his good beha-

Juſtice may apprehend vagrants.

viour. And in case of refusal or neglect, to commit him to the jail of the county, for any term not exceeding ten days; at the expiration of which time, he shall be set at liberty; if nothing criminal appears against him. The said offender paying all charges arising from such imprisonment. And if such person shall be guilty of the like offence, from; and after the space of twenty days, he, or she so offending, shall be deemed a vagrant, and be subject to one month's imprisonment, with all costs accruing thereon: which, if he or she neglect or refuse to pay, he or she may be continued in prison until the next county court; which may proceed to try the said offender; and if found guilty by verdict of a jury of good and lawful men, the said court may proceed to hire the offender for any term, not exceeding six months; to make satisfaction for all costs. But if such person, so offending, be of noted ill fame, so that he or she cannot be hired for the costs, nor give sufficient security for the same, and his, or her good behaviour: in that case, it shall and may be lawful for the said court to cause the offender to receive, not exceeding thirty-nine lashes, on his or her bare back: after which, he or she shall be set at liberty; and the costs accruing thereon shall become a county charge. Which punishment may be inflicted as often as the prisoner may be guilty: allowing twenty days between the punishment and the offence.

Houſe-keepers not to harbor ſuſpicious perſons.

Sec. 2. *And be it further enacted*, That it shall not be lawful for any house-keeper, within this territory, to harbour or entertain any idle person, of a suspicious character, knowingly, for any longer time than twenty-four hours; under the penalty of ten dollars, for every such offence: to be recovered by warrant, before any justice of the peace of the county where the offence shall be committed.

Sec. 3. *And be it further enacted*, That all fines inflicted by this act, shall be paid, the one half to the informer, and the other half to the use of the county.

CHAP. VIII.

AN ACT *to regulate Taverns, and restrain Tippling-Houses.*

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That every person, who shall be recommended for the purpose, to the county court of the county, in which such person may be desirous of keeping a tavern, by six or more reputable free-holders of the county, shall be entitled to receive from the county court aforesaid, a license to keep a tavern; for and during the term of one year, from the date of such license: and from thence until the next county court, after the expiration of the said one year: *Provided,* That on receiving the same, the said applicant shall pay to the clerk of the said court, in open court, twenty dollars, for the use of the county; and it shall be the duty of the said clerk to make an entry thereof, on his minutes; and within twenty days after the rising of the court; to pay the same into the county treasury, taking the treasurer's receipt, as his voucher for such payment; to be filed in his office.

Tavern Licenses.

And further, the applicant, before the said license is delivered to him, shall enter into, and acknowledge his bond, with sufficient sureties, in the penal sum of three hundred dollars; payable to the governor of this territory, and his successors in office; conditioned for constantly keeping and providing his said tavern, with good, clean, and wholesome diet, and lodging for travellers, and stabling, provender, or pasturage for horses: for and during the term of his license, and for the due observance of all laws and ordinances, which are or may be in force in this territory, in relation to tavern-keepers. And when such bond shall be executed and acknowledged as aforesaid, the clerk of the court aforesaid, shall file the same in his office, and deliver the license to the aforesaid applicant: for which and the bond, and all his services respecting the same; except the table of rates, the clerk shall receive two dollars. In case of the breach of, or not complying with the condition of the said bond, it shall and may be lawful for any person, in the name of the governor, to sue for and recover, in any court, having jurisdiction thereof, the penalty of the said bond; and apply one half to his or her own use, and the other half to the use of the county, where the cause of action may arise.

Tavern rates.

Sec. 2. *And be it further enacted*, That the justices of the county courts shall fix the rates and prices to be paid at all taverns in their respective counties, once a year at least, for liquors, lodging, diet, stabling, provender, and pasturage; and may increase or diminish the same as to them may seem proper. And every tavern-keeper shall, within twenty days after the rates are fixed, set up in his public entertaining room, in a conspicuous place, a fair table of rates, certified by the clerk of the court, for which the said clerk shall receive twenty-five cents: there to be constantly kept, exposed to public view as aforesaid, under the penalty of twenty dollars.

Sec. 3. *And be it further enacted*, That if any tavern-keeper shall receive any greater price for any drink, diet, lodging, provender, stabling or pasturage, than by such rate shall be allowed: he or she so offending, shall forfeit and pay ten dollars for every such offence.

Sec. 4. *And be it further enacted*, That it shall be unlawful for any inn-holder or tavern-keeper, to permit or suffer any cock-fighting, or playing with cards or dice; or to keep any gaming table, of whatsoever denomination; or any kind of gaming whatsoever, in his or her inn, or tavern; or in any out-house, tenement, yard, or garden belonging thereto. And for every such offence, he or she so offending, shall forfeit and pay eight dollars.

Not to suffer gaming.

Sec. 5. *And be it further enacted*, That if any person shall presume to keep a tippling-house, or sell rum, brandy, whiskey, taffia, or other spirituous liquors, in less quantity than one gallon, except as is hereafter excepted; or shall sell any strong beer, porter, cider or wine, in less quantity than four gallons, without a license first obtained, as aforesaid: he or she so offending, shall for the first offence, forfeit and pay ten dollars: and every succeeding offence, the sum of twenty dollars.

Retailing without licence.

Provided, nevertheless, That nothing in this act contained, shall be so construed as to prevent merchants and shop-keepers from retailing liquors, in any quantity above a quart; so that the same be not drunk with his or her consent or privity, in their stores, or on the premises, where they reside or have their stores.

Sec. 6. *And be it further enacted*, That if any inn-holder, or tavern-keeper, or other person whosoever, shall give, sell, or deliver any kind of spirituous, fermented or strong liquors, whatsoever, to any apprentice, servant or slave, or in any way, entertain them, without the consent or permission of the master, owner, or such other person as shall have such apprentice, servant or slave in their care: every person, so offending, shall for the first offence forfeit and pay the sum of ten dollars; and for every succeeding offence, the sum of twenty dollars.

Duty with regard to apprentices, &c.

Sec. 7. *And be it further enacted*, That no tavern keeper, inn-holder or retailer of spirits, shall presume to sell any rum, brandy, wine, or other kind of intoxicating liquors, to any soldier or soldiers, stationed within this territory; belonging to, and in the actual service of the United States; knowing him or them to be such; without permission from one of his or their commissioned officers. And such tavern-keeper or other person, as aforesaid, so offending, shall for every such offence, forfeit and pay the sum of twenty dollars. *Provided*, That nothing contained in this act, shall be so construed as to extend to those who are permitted to sell within the military lines.

Penalty for ſelling liquor to troops,

Sec. 8. *And be it further enacted*, That if any person or persons, residing in, coming into, or passing through the Mississippi Territory, or any part thereof, shall presume to furnish, vend, sell or give; or shall direct, or procure to be furnished, vended, sold or given, upon any account whatsoever, to any Indian or Indians, being within this territory; any rum, brandy, whiskey, or other intoxicating liquor, or drink, without special permission in writing, from the governor, as superintendant of Indian affairs: he or she so offending, shall forfeit and pay for every quart of such liquor, or drink, so furnished, the sum of twenty dollars; and for every quantity furnished at one time, less than a quart, the sum of ten dollars; to be recovered by any one suing for the same, by any justice of the peace of the proper county; when the sum of the penalty or penalties does not exceed the sum of twenty dollars; and when the sum shall exceed twenty dollars, before any court, having competent jurisdiction: to be applied in either case, one half to the informer, and the other half to the use of the territory.

Or Indians.

Sec. 9. *And be it further enacted*, That if any tavern or inn-keeper, or other person within this territory, shall presume to sell rum, brandy, or such like spirits, that is adulterated with water, or any other liquor, knowing the same to be adulterated or mixed, and being convicted thereof, by the testimony of one or more credible witnesses; he or she so offending, shall for every such offence, forfeit and pay twenty dollars. Selling adulterated liquor

Sec. 10. *And be it further enacted*, That if any inn-holder, or tavern-keeper, shall be convicted of being drunk, in his own inn, or tavern, besides the penalty consequent on the crime of drunkenness, his license shall immediately thereupon become void. Drunkenness

Sec. 11. *And be it further enacted*, That all the fines and forfeitures herein before inflicted by this act, shall be recovered before any justice of the peace for the county, wherein the offence may have been committed; one half to the use of the county, the other half to the use of the person suing for the same. Mode of recovery.

Sec. 12. *And be it further enacted*, That this act shall be in force from the passing thereof; and all laws heretofore made for regulating taverns, and inns, retailers of strong liquors, and all clauses and parts of laws concerning them, coming within the purview of this act, be, and the same are hereby repealed. Repealing clause.

CHAP. IX.

AN ACT *regulating the Conduct of Hawkers and Pedlars.*

WHEREAS many avaricious persons, availing themselves of the advantage given to them by our insolated situation, come among us in the style of pedlars or traders, and by false weights and measures sell at enormous prices, and furnish luxuries of life more than is actually necessary: Therefore, Preamble.

for the prevention of such evils and impolitic practices:

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That from and after the passing of this act, it shall be the duty of every such pedlar or trader, before he can legally proceed to sell any such merchandize, to apply to the clerk of the county court in which he may vend his merchandize, for a license to sell the same, and shall pay for said license the sum of fifty dollars; which license the said clerk is hereby authorised and required to give; and the said sum shall be put in the county treasury of said county, as a fund to defray the county taxes.

License.

Sec. 2. *And be it further enacted*, That if any such pedlar or trader shall presume to vend any such article of merchandize, without first obtaining such license, he shall forfeit and pay to the clerk of said county, for the use of said county, the sum of two hundred dollars; and it is hereby made the duty of the clerk to sue for the same, on the earliest information, under the penalty of two hundred dollars, to be sued for by the attorney-general: *Provided*, That nothing in this act contained, shall be so construed as to obstruct the free trade down the Mississippi river, or to require any person to purchase a license before he may legally vend any article of the growth or manufacture of any of the United States, or the territories thereof.

Penalty.

Sec. 3. *And be it further enacted*, That all suits commenced under this act, shall be by action of debt, in the county in which such offence shall be committed, in the superior, circuit or county courts, as the attorney-general shall think best; and persons sued under this act, shall give bail to the sheriff as in other cases.

Mode of recovery.

Sec. 4. *And be it further enacted*, That this act shall commence and be in force from, and after the first day of May next.

JOHN ELLIS, *Speaker of the House of Representatives.*
JOSHUA BAKER, *President of the Legislative Council.*

Approved—*February* 4, 1807.
ROBERT WILLIAMS, *Governor of the Mississippi Territory.*

CHAP. X.

An Act *establishing Weights and Measures in the Mississippi Territory.*

Treaſurer to procure a general ſtandard.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That the treasurer of the territory be, and he is hereby authorised and required to procure, as soon as may be, at the public expence, one set of weights and measures, viz :—one weight of fifty pounds, one of twenty-five, one of fourteen, two of six, two of four, two of two, and two of one pound avoirdupoise weight, according to the standard of the United States, if one be established, but if there be none such, according to the standard of London; with proper scales for weights, together with measures, one of the length of one foot, and one of one yard, cloth measure; and the measures of one half bushel, one peck, and one half peck, dry measure; also the measures of one gallon, one of half a gallon, one of one quart, one of one pint, one of half a pint, and one of one gill, wine measure, according to the above named standards; and the said weights, measures and scales, shall be deposited with the said treasurer, to serve as a general standard for weights and measures within this territory, until otherwise directed by Congress.

County standards.

Sec. 2. *And be it further enacted*, That when the aforesaid weights, measures and scales, shall be provided as aforesaid, the treasurer shall cause to be made or procured for each county within this territory, at the public expence, one set of weights, scales and measures; and the last mentioned weights and measures shall be compared by the said treasurer, with the aforesaid general standard, and when found to agree therewith, shall be forthwith transmitted by him to the clerks of the several county courts in this territory.

Sec. 3. *And be it further enacted*, That the said weights, measures and scales, shall be kept by such person in each county, as the county court shall direct, who shall take the following oath, viz: "I, A. B. do solemnly swear, or affirm, as the case may be, that I will in all things act with justice and faithfulness in my appointment as keeper of the standard of weights and measures, for the county of , according to law, to the best of my skill and judgment. So help me God." And immediately after such appointment, the clerks of the several county courts shall make known the same by advertisement, to be fixed at the door of the court-house, and also by inserting the same in one of the public gazettes of this territory. And all persons desirous of trying their weights and measures, may resort to the aforesaid county standard for that purpose; and if they are found true, the person appointed to keep the said standard, shall seal them with a seal, to be provided by the county court, at the expence of the county; and the persons appointed in the several counties, to keep the said county standard, shall be entitled to receive for trying every steel-yard, and giving certificate therefor, and for trying any other weights and measures, and sealing the same, fifty cents each, to be paid by the person for whom such service is rendered or done.

Penalty for ſelling with falſe weights.

Sec. 4. *And be it further enacted,* That three months after the appointment of a person to keep the said county standard shall have been made as aforesaid, every person or persons who shall sell any commodity whatever, by weight or measure that shall not correspond with the said county standard, or shall keep any such for the purpose of buying or selling with; shall for every such offence, forfeit and pay the sum of ten dollars: recoverable before a justice of the peace, by any person who will sue for the same, and applied to his own use.

Sec. 5. *And be it further enacted,* That the territorial treasurer shall transmit to the clerks of the respective counties, the weights, scales and measures, as directed by the second section of this act, within twelve months from and after the passing hereof.

JOHN ELLIS, *Speaker of the House of Representatives.*
JOSHUA BAKER, *President of the Legislative Council.*

Approved—*February* 4, 1807.

ROBERT WILLIAMS, *Governor of the Mississippi Territory.*

CHAP. XI.

AN ACT *to prevent unlawful Hunting, and for other purposes.*

(Paſſed Fnbruary 10, 1803.)

Penalty for fire hunting.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That it shall not be lawful for any person or persons to hunt with fire, in the night time, within four miles of any settlement in this territory: and every person convicted thereof, before any two justices of the peace, of the county wherein the offence was committed, by the oath of one or more credible witnesses, shall forfeit and pay for every such offence twenty dollars; to be recovered with costs, by warrant of the justices, before whom the conviction shall be had; for the use of the person who shall sue for the same. And in case any person or persons, so convicted, shall refuse or neglest to pay such fine, then it shall be the duty of the justices, before whom he or they shall have been convicted, to commit such person or persons to the jail of the county where the crime shall have been committed; there to remain without bail or mainprize, any term, not less than one, nor more than three months.

Killing cattle, &c.

Sec. 2. *And be it further enacted,* That if any person hunting with fire in the night time, shall kill any horse, mare, colt, neat cattle, hog, sheep, or other domestic animal, not being his own: the person or persons so offending, shall be liable to an action at law for double damages, to the person aggrieved, in addition to the above penalties.

Slaves fire-hunting.

Sec. 3. *And be it further enacted,* That if any slave or slaves shall be discovered fire-hunting, in manner aforesaid; such slave or slaves, on conviction thereof, in manner aforesaid; before any one justice of the peace, for the county wherein the offence may be committed, shall by order of the said justice, receive thirty lashes, well laid on his bare back. And the master or owner of the said slave, or the person in whose care he shall be, shall forfeit and pay the sum of ten dollars for each slave so sonvicted: to be levied by a warrant; immediately to be issued by such justice for the purpose.

Sec. 4. *And be it further enacted,* That if any person convicted before two justices of the peace, in manner aforesaid, of sending or having sent, his or her slave, or any slave in their charge or care, to fire-hunt, in manner before mentioned; the person or persons so offending, shall be subject to the same pains, as are provided by this act, to be inflicted on fire-hunters; but the slave so sent shall receive no punishment.

Evidence.

Sec. 5. *And be it further enacted*, That if any person summoned to give evidence against any person accused under this act, shall refuse or neglect to give such evidence, the person so refusing or neglecting, shall be committed to the jail of the county where the offence shall be committed, until he or they shall give testimony against the said offender.

Sec. 6. *And be it further enacted*, That nothing contained in this act shall be construed to affect any provisions contained in the act, entitled "An act for the punishment of crimes therein mentioned;" passed the 30th January, 1802.

Captains to read this act to their companies.

Sec. 7. *And be it further enacted*, That the captains of the several companies of militia in this territory, shall cause this act to be read at the head of their respective companies, twice in every year, after the publication thereof, under the penalty of forfeiting to the use of the county, for every such neglect, five dollars, recoverable by warrant of any justice of the peace, on the oath of two reputable witnesses,

Sec. 8. *And be it further enacted*, That this act shall commence and be in force, from, and after the first day of March next ensuing.

CHAP. XII.

AN ACT *regulating the Solemnization of Marriages.*

Who may solemnize the rites of matrimony.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That any one of the territorial judges; any ordained minister of the gospel; and any justice of the peace, within the county in which such justice is assigned to keep the peace, may solemnize the rites of matrimony between any free persons within this territory; who shall produce a license, as herein after directed: *Provided,* That such minister shall have produced to the orphans' court of some county in this territory, credentials of his ordination, and of his being in regular communion with the christian society of which he is a member: and have obtained from such court, a testimonial, authorising him to solemnize the rites of matrimony, in this territory; which said testimonial shall be granted at the discretion of the said court; and recorded by the register in a book, to be kept for that purpose; as also, for the purpose of recording therein, all marriage licenses: consent of parents and guardians: and certificates of the solemnization of marriages.

Sec. 2. *And be it further enacted,* That it shall and may be lawful for every pastor of any religious society in this territory, to join together in marriage, such persons as are of the society, according to the rules and customs established by such society, to which they belonged.

Clerk, &c. to keep records.

Provided, That the clerk or keeper of the minutes, proceedings, or other books of the religious society, wherein such marriage shall be had and solemnized, shall make a true and faithful register of all marriages solemnized in the society, in a book by him kept: and return a certificate of the same to the register of the orphans' court; to be by him entered in his book kept for that purpose.

Records admitted as evidence.

Sec. 3. *And be it further enacted,* That such book of marriages, so kept by the respective registers of the orphans' court, and by the clerks of such religious societies, as are authorised to solemnize marriages, by the preceding section of this act, shall be admitted as evidence in all the courts of law and equity, in this territory.

Quakers, &c.

Sec. 4. *And be it further enacted,* That it shall be lawful for the people called quakers and menonists, or any other christian society, that have adopted similar regulations, in their church, to solemnize their own marriages, and be joined together as man and wife, by the mutual consent of the parties, openly published and declared before their congregation, when convened for religious worship; in manner, and agreeable to the regulations heretofore practised in their respective societies.

Licenſes, by whom, and under what reſtrictions to iſſue.

Sec. 5. *And be it further enacted,* That marriage licenses shall be hereafter granted, and issued by the register of the orphans' court of the county in which the female usually resides, under the following regulations and restrictions. The register shall take a bond with sufficient security, in the penal sum of two hundred dollars; payable to the governor of this territory, for the time being; and his successors in office, for the use of the territory; conditioned, that there is no lawful cause to obstruct the marriage, for which such license is required: and if the male, intending to marry, be under the age of twenty-one years, or the female under the age of eighteen years, the consent of the parent or guardian of such infant, shall be personally given before the said register, or due proof made to him by the oath, of at least, one credible witness: which oath the said register is hereby authorised to administer, that such parent or guardian did sign a certificate, then produced; giving his consent for the celebration of such marriage: whereupon the said register shall record the consent, personally given as aforesaid: or the certificate thereof, proved as aforesaid and issue a license and record the same: directed to any judge, minister, or justice, lawfully authorised to celebrate the rites of matrimony. And if any register shall issue any marriage license, without the requisites before prescribed; or in any other manner than above mentioned, such register shall, for each offence, forfeit and pay, five hundred dollars; recoverable by action of debt, in any court having cognizance thereof, one half to the use of the territory, and the other half to the use of the person suing for the same.

Penalty for marrying without license.

Sec. 6. *And be it further enacted*, That if any judge, minister, or justice, shall join any persons together as man and wife, without lawful license, as by this act required: or go out of the territory, and marry persons belonging to the territory, without such license; such judge, minister, or justice, shall, in either case, forfeit and pay the sum of one thousand dollars; to be recovered by action of debt; one half to the use of the territory, and the other half to the use of the person suing for the same.

Judge, &c. to tranſmit certificate to the regiſter.

Sec. 7. *And be it further enacted*, That a certificate of every marriage, hereafter solemnized, signed by the judge, minister, or justice, celebrating the same; or (in case of quakers, menonists, and other societies, that solemnize their marriages by consent of parties, taken in open congregation as aforesaid) by the clerk of the meeting, shall be transmitted by such judge, minister, justice or clerk, as the case may be, to the register of the orphans' court, of the county wherein the marriage is solemnized: to be recorded within six months thereafter, by the register: an exemplification of which shall be evidence of such marriage. And the said register shall receive for his services, for taking bond, consent of parents or guardians, and recording the same, granting and recording license and marriage certificate, the sum of two dollars; to be paid at the time of issuing such license. And every judge, minister, justice or clerk of a congregation, as the case may be, failing to transmit such certificate to the register within the time above prescribed, shall forfeit and pay the sum of fifty dollars, to any person who will sue for the same.

Regiſter's fees.

Sec. 8. *And be it further enacted*, That if any person shall marry within the following degrees; that is to say—if the son shall marry his mother or step-mother, the brother his sister, the father his daughter, or his daughter's daughter; or if the son shall marry the daughter, begotten, and born of his step-mother: or his aunt, being his father's or mother's sister: or marry his uncle's widow; or if the father shall marry his son's widow; or if any man shall marry his wife's daughter, or his wife's son's daughter, or his wife's daughter's daughter; every person or psrsons so unlawfully married, shall be prosecuted by indictment; and on conviction shall be fined, not exceeding five hundred dollars; to the use of the territory. And the court, on conviction as aforesaid, shall moreover declare such marriage null and void, to all intents and purposes; and may at their discretion, cause the parties so separated, to enter into a recognizance, with security, that they will not cohabit thereafter: *Provided* That nothing herein contained shall be so construed as to render illegitimate the issue of any such marriage, begotten before the same is so annulled.

Degrees, within which no perſon ſhall marry.

CHAP. XIII.

AN ACT *concerning Divorce and Alimony.*

(Paſſed March 10, 1803.)

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That the supreme or superior court of this territory, having equity jurisdiction, shall, from and after the passing of this act, have jurisdiction of all causes of divorce, by this act directed and allowed; *Provided* the parties be inhabitants of this territory.

Proceedings in caſe of divorce.

Sec. 2. *And be it further enacted,* That the like process and course of practice, and procedure shall be had, and pursued in causes of divorce, as are usually had and pursued in other causes, on the equity side of the said court; except that the answer of defendants shall not be under oath.

In what caſes it may be decreed.

Sec. 3. *And be it further enacted,* That divorces from the bond of matrimony, shall be decreed in cases where the parties are within the degrees prohibited by law, in cases where either party is naturally impotent: and in case of adultery in either of the parties; and also for wilful, continual and obstinate desertion, for the term of five years; but the decree, or sentence of divorce, in such cases shall not render illegitimate the issue, born under such marriage.

Sec. 4. *And be it further enacted,* That divorces from the bond of matrimony shall also be decreed, where either of the parties had another wife or husband, living at the time of such second or other marriage; and that all marriages, where either of the parties shall have a former wife or husband living, at the time of such marriage, shall be invalid from the beginning, and absolutely void.

Sec. 5. *And be it further enacted,* That if it appears to the court, that the adultery complained of, is occasioned by collusion of the parties, and done with intention to procure a divorce, then no divorce shall be decreed.

Sec. 6. *And be it further enacted,* That divorce from bed and board, shall be decreed for extreme cruelty, in either of the parties: but if it appears, that the cruelty complained of, is occasioned by the collusion of the parties, and done with intent to obtain such divorce, then no divorce shall be decreed.

Proviſion for children of divorced perſons.

Sec. 7. *And be it further enacted,* That when a divorce shall be decreed on account of the parties being within the prohibited degrees, or for the cause of adultery, or extreme cruelty, the court shall, and may in every such case, take such order, touching the care and maintenance of the children of that marriage; and also touching the maintenance and alimony of the wife; or any allowance to be made to her; and if any the security to be given for the same, as from the circumstances of the parties, and nature of the case, may be fit, equitable, and just.

Co-habiting after divorc

Sec. 8. *And be it further enacted,* That if any person, who shall be divorced on account of their being within the prohibited degrees, shall after such divorce, cohabit together; such persons so offending shall be liable to all the pains and penalties provided by the then existing laws against incest.

Sec. 9. *And be it further enacted,* That if any person cohabit together after the divorce, for the cause of prior marriage or adultery; such persons so offending, shall be liable to all the pains and penalties provided by the laws, then existing, against adultery.

Sec. 10. *And be it further enacted,* That in all cases of divorce, brought, or to be brought into any of the courts of this territory, if the party against

In caſe of removal.

whom complaint is made, or shall be made, hath removed or shall, after the cause of complaint hath arisen, remove out of the jurisdiction of the said court; so that the process thereof cannot be served, or if served, the party cannot be compelled to appear, or answer, or plead; it shall and may be lawful for the judges of the said court, on bill filed, and due proof, that the defendant hath removed, as aforesaid, to order a hearing, on the fact charged in the said bill, and thereupon to pass a decree in the same manner, as if the defendant had appeared and were present in court. *Provided, nevertheless*, That a copy of the said order for hearing be published in one of the public news-papers of this territory, for the space of three months, at least, before the day appointed for the said hearing.

CHAP. XIV.

AN ACT *concerning Aliens.*

(Paſſed March 18th, 1799.)

Suſpicious aliens to give bonds, &c.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That to prevent the admission within this territory, of foreigners of infamous character, and the evils to be apprehended from the residence herein of persons owing no allegiance to the United States, and residing within this territory, whom he shall have reasonable grounds to suspect of being concerned in any treasonable or secret machinations against the government, he may demand bonds with sureties, for their good behaviour; in any penal sum, sufficient in the opinion of a territorial judge: and in case of refusal or inability to give the same, he may compel them to depart the territory, or commit them to prison.

And it shall be the duty of each and every alien within this territory; immediately after the publication of this law, to make report of himself in writing, to some one of the conservators of the peace; specifying therein his age; place of nativity; the country whence he came; the nation to which he belongs, and owes allegiance: his occupation; and the arms and ammunition of which he is possessed. And every alien, who shall neglect or refuse obedience to this law, shall be fined in a sum, not exceeding three hundred dollars; to and for the use of this territory; to be recovered by information or indictment, in any court of record, having cognizance of the same.

Alien to report himſelf.

CHAP. XV.

An Act *to prevent the importation, and spreading of the Small-Pox, and other Contagious Diseases.*

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That if any person or persons, whatever, shall wilfully and designedly presume to import or bring into the territory, from any country or place whatever, the small-pox, or any variolus or infectious matter of the said disease, for the purpose, or with a design to spread the same by inoculation, or otherwise; or shall inoculate, or procure inoculation for the small-pox, after such disease may have been introduced; except under such regulations and restrictions as shall herein after be named; he or she so offending, shall forfeit and pay a sum, not exceeding two thousand dollars; and be imprisoned a term, not exceeding twelve months, for every offence so committed.

Penalty for ſpreading infectious diſeaſes.

Governor to prevent the ſpreading of the ſmall pox.

Sec. 2. *And be it further enacted*, That the governor is hereby authorised, on knowing from his own observation, or by information being given to him, by any physician, that the plague, yellow-fever, small-pox, or other contagious disorder, has been introduced into a neighboring country, or found admittance within this territory: or on board any boat or vessel, at or near the shores of the same: to take such measures to provent a communication of the infection, and for the aid and comfort of the sick when within the said territory, as he shall deem meet. And all expences incurred in the prosecution of this humane intention, shall, by warrant of the governor, be paid out of the monies of the territorial treasury, not otherwise appropriated: but in all cases, the said expences shall be reimbursed by the person or persons for whom such provisions shall have been made; they being of ability to pay the same.

Perſons wiſhing to be inoculated.

Sec. 3. *And be it further enacted*, That whereas in certain cases, inoculation for the small-pox, may not only be a prudent, but a necessary measure for securing those who are, or may be unavoidably exposed to the danger of taking the disease in the natural way: and for this reason it is judged expedient to tolerate the same, under certain reasonable regulations and restrictions. *It is provided*, therefore, that if any person or persons, who may wish to be inoculated, shall petition the governor to that effect, he may appoint him or them a place within this territory, that will not endanger the health of the citizens of the same, where the petitioner or petitioners shall resort for the purpose of being inoculated. And should any master or mistress of a family think him or herſelf, his or her family in danger of catching the small-pox in the natural way, such person shall give like notice to the governor: and if he shall deem it prudent and proper, and not dangerous to the health and safety of the people of this territory, for such person or family to be inoculated, he may admit of the same or otherwise, as to him shall seem expedient.

Patient to obtain certificate, before he goes abroad.

Sec. 4. *And be it further enacted*, That no patient in the small-pox, shall, until after having obtained a certificate from the attending physician, or other person, qualified to give such certificate, of his, her, or their recovery; and of their being perfectly clean in their person and cloths, remove from the place where he, she or they shall have had the small-pox, to go abroad in the company of other people, who have not had the disease; or go into any public road or highway, where travellers usually pass, without retiring out of the same; or giving notice, on the approach of any passenger; under the penalty of forfeiting and paying for every such offence, the sum of one hundred dollars: and if a servant or slave, to be paid by his or her master or mistress.

Fines, how recoverable.

Sec. 5. *And be it further enacted*, That all monies forfeited under this act, may be sued for in any court of record within this territory; having jurisdiction of the same. And the monies so recovered, shall be appropriated, the one half to the informer, and the other half paid into the treasury of this territory.

Sec. 6. *And be it further enacted*, That this law shall be in force, from, and after the passage thereof.

CHAP. XVI.

AN ACT *to prevent the Importation of Distempered Cattle into this Territory.*

(Paſſed September 21, 1799.)

WHEREAS serious evils may arise to the people of this territory, by the importation of distempered cattle: For remedy whereof,

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Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That any person importing into this territory, cattle afflicted with a contagious distemper, shall be subject to a fine of ten dollars, for every head so imported: recoverable before a single magistrate, with a right of appeal; one half of which shall be for the use of the territory, and the other half for the use of the person suing for the same.

CHAP. XVII.

AN ACT *respecting Slaves.*

In what caſe ſlaves may be witneſſes.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That no slave be admitted a witness against any person, in any matter, cause, or thing whatsoever, civil or criminal, except in criminal cases, in which the evidence of one slave shall be admitted for or against another slave.

Slaves not to go from home without paſs,

Sec. 2. *And be it further enacted,* That no slave shall go from the tenements of his master, or other person, with whom he lives, without a pass, or some letter or token, whereby it may appear that he is proceeding by authority, from his master, employer, or overseer: if he does, it shall be lawful for any person to apprehend and carry him before a justice of the peace; to be by his order, punished with stripes, or not, in his discretion, not exceeding twenty stripes.

Nor upon the lantation of y perſon ithout leave in writing.

Sec. 3. *And be it further enacted,* That if any slave shall presume to come, and be upon the plantation of any person whatsoever, without leave, in writing, from his or her owner or overseer, not being sent upon lawful business; it shall be lawful for the owner or overseer of such plantation, to give, or order such slave ten lashes, on his or her bare back, for every such offence.

Not to carry offenſive or defenſive weapons.

Sec. 4. *And be it further enacted*, That no slave shall keep or carry any gun, powder, shot, club, or other weapon whatsoever, offensive, or defensive, except the tools given him to work with, or that he is ordered by his master, mistress, or overseer, to carry the said articles from one place to another: but all and every gun, weapon, or ammunition, found in the possession or custody of any slave, may be seized by any person; and upon due proof thereof made before any justice of the peace of the county or corporation, where such seizure shall be made, shall by his order, be forfeited to the seizer for his own use: and moreover, every such offender, shall have and receive, by order of such justice, any number of lashes, not exceeding thirty-nine, on his bare back, for every such offence. *Provided nevertheless*, That any justice of the peace may grant, in his proper county, permission in writing, to any slave, on application of his master or overseer, to carry and use a gun and ammunition, within the limits of his said master or owner's plantation; for a term, not exceeding one year; and revocable at any time within such term, at the discretion of the said justice. And to prevent the inconveniences arising from the meeting of slaves,

In what caſes they may get leave to carry gun, &c.

Penalty on perſons permitting ſlaves not their own to remain on their plantations.

Sec. 5. *Be it further enacted*, That if any master, mistress, or overseer, of a family, shall knowingly permit or suffer any slave, not belonging to him or her, to be and remain in or about his or her house or kitchen, or upon his or her plantation, above four hours at any one time, without leave of the owner, or overseer of such slaves; he or she so permitting, shall forfeit and pay ten dollars for every such offence. And every owner or overseer of a plantation, who shall so permit or suffer more than five negroes or slaves, other than his or her own, to be and remain upon his or her plantation, or quarter, at any one time, shall forfeit and pay ten dollars for each negro or slave above that number: which said several forfeitures shall be to the informer; and recoverable with costs, before any justice of the peace of the county or corporation where such offence shall be committed. *Provided always*, That nothing herein contained shall be construed to prohibit the negroes or slaves of one and the same owner, though seated at different quarters, from meeting with their owners' or overseers' leave, upon any plantation to such owner belonging; nor to restrain the meeting of slaves on their owner or overseer's business, at any public mill; nor to prohibit their meeting on any other lawful occasion; by license, in writing, from their owner or overseer; nor their going to church, and attending divine service, on the Lord's day, and between sun-rising and sun-setting.

Riots, &c. how puniſhable.

Sec. 6. *And be it further enacted*, That riots, routs, unlawful assemblies, trespasses, and seditious speeches, by a slave or slaves, shall be punished with stripes, not exceeding thirty-nine; at the discretion of a justice of the peace: and he who will, may apprehend, and carry him, her, or them, before such justice.

Penalty for aſſociating with ſlaves, at their unlawful meetings.

Sec. 7. *And be it further enacted*, That if any white person, free negro, or mulatto, shall at any time be found in company with slaves, at any unlawful meeting; or shall harbour or entertain any slave, without the consent of his or her owner; such person being thereof convicted, before any justice of the peace, shall forfeit and pay twenty dollars, for every such offence, to the informer; recoverable, with costs, before such justice.

Sec. 8. *And be it further enacted*, That every ustice of the peace, upon his own knowledge of

Powers of juſtices. in caſe of ſuch meetings,

such unlawful meeting, or information thereof to him, made within ten days after, shall issue his warrant to apprehend the persons, so met, or assembled; and cause them to be brought before himself, or some other justice of his county or corporation; to be dealt with as this act directs: and every *justice failing herein*, shall forfeit and pay ten dollars for every such failure. And every sheriff or other officer, who shall fail, upon knowledge or information of such meeting, to endeavour to suppress the same, and bring the offenders before some justice of the peace, to receive due punishment, shall be liable to the like penalty of ten dollars. Both which penalties shall be to the informer, and recoverable with costs, by action of debt, in any county or corporation court. And every under sheriff, or constable, who, upon knowledge or information of such meeting, shall fail to perform his duty, in suppressing the same, and apprehending the persons so assembled, shall forfeit and pay ten dollars, for every such failure, to the informer: recoverable with costs, before any justice of the county or corporation, wherein such failure shall be.

Trading with ſlaves prohibited.

Sec. 9. *And be it further enacted*, That no person whatsoever, shall buy, sell, or receive of, to, or from a slave, any commodity whatsoever, without the leave or consent of the master, owner or overseer of such slave, expressive of the article so permitted to be bought, sold or bartered. And if any person shall presume to deal with any slave, without such leave or consent; he or she so offending, shall forfeit and pay to the master or owner of such slave, four times the value of the thing so bought, sold, or received: to be recovered with costs, by action upon the case, in any court, having cognizance of the same, within this territory: and shall also forfeit and pay the further sum of twenty dollars, to any person who will sue for the same; with costs, before any justice of the peace; or on failure or refusal so to pay, shall, by order of such justice, be committed to prison, until he or she make such payment. And any slave offering to sell any article, without leave in writing from his master or owner, shall receive ten lashes, by order of any justice of the peace, before whom he or she is convicted.

Maſters not to licenſe their ſlaves to trade,

Sec. 10. *And be it further enacted*, That if any master or owner of a slave shall license such slave to go at large, and trade as a freeman, the master or owner shall forfeit and pay the sum of fifty dollars; one moiety to the use of any person suing for the same, and the other moiety to the use of the territory. And if after conviction, such slave shall be found so going at large, and trading, the master or overseer shall again be liable to the like penalty; to be recovered as aforesaid; and so, as often after conviction as such slave shall be found so going at large and trading.

Or to go at large.

Sec. 11. *And be it further enacted*, That if any person shall permit his or her slave to go at large or hire him or herself out: every person or persons so offending, shall forfeit and pay, to the use of the territory, the sum of fifty dollars: and it shall be lawful for any person to apprehend, and carry such slave before a justice of the peace, in the county or corporation where apprehended.—And if it shall appear to the justice, that such slave comes within the purview of this act, he shall order him or her to the jail of the county or corporation: there to be safely kept until the next court; when if it shall be made appear to the court, that the slave so ordered to gaol, hath been permitted or suffered to hire him or herself out, contrary to the meaning of this act, the court shall immediately proceed to enter up judgment, and award execution against such offender, for the amount of the said forfeiture, with costs: *Provided*, That if the owner or holder of such slave or slaves, shall enter into bond before the said justice, payable to the governor, and his successors in office; with sufficient security, in double the amount of the said forfeiture; conditioned to appear at the next county court of the proper county, to do and receive what shall be enjoined him by the court; then and in that case, such slave may be suffered to remain with his or her owner.

Runaways, how dealt with, &c.

Sec. 12. *And be it further enacted*, That all runaway slaves may be lawfully apprehended by any person, and carried before the next justice of the peace; who shall either commit them to the county jail, or send them to the owner, if known; who shall pay for every slave so taken up, the sum of six dollars, to the person apprehending him or her: and also all reasonable costs and charges.

And in order to establish what slaves shall be considered as runaways: if any slave shall absent him or herself, from his or her usual place of residence, or owner's service, without leave, the owner or overseer shall be obliged to give into the next justice of the peace, the name, with a description of the person of such slave, within ten days after such slave shall have absented him or herself: all such slaves so reported, shall be considered as runaways; and the person apprehending him, her, or them, shall be entitled to the above reward. And if any master, mistress, or overseer, shall neglect to give in the information above required; such master, mistress, or overseer, shall forfeit and pay one dollar for each day that such information shall have been omitted: which penalty shall be recoverable before any justice of the peace, by such person as shall sue for the same.

And whereas many times slaves run away, and lie out hid, and lurking in swamps, woods, and other obscure places, killing hogs, and committing other injuries to the inhabitants of this territory, therefore.

Further power of juſtices, as to out-lying runaway ſlaves.

Sec. 13. *And be it further enacted*, That in all such cases, upon intelligence given, of two or more slaves lying out, as aforesaid, any one justice of the peace of the county, where the slaves are supposed to lurk or do mischief, shall be, and are empowered and required, by warrant, reciting their names, and owners' names, if known, to direct the provost of the patrols to take such power with him as he shall think fit and necessary for the effectual apprehending of such out lying slave or slaves, and go in search of them: and upon their being apprehended, to commit them, or any of them, to the gaol of his county, for further trial. And for every such out lying slave, by him apprehended and committed to gaol, as aforesaid, he shall be entitled to a reward of thirty dollars; to be paid out of the territorial treasury; three fourths of which sum shall be reimbursed to the territory by the owner of the said slave; *Provided*, That if the owner be an inhabitant of this territory, the said sum shall be added to his tax for the current year; and be collected and accounted for in the same manner as other public taxes are.

And provided also, That any other person or persons, who shall apprehend and commit to gaol, as aforesaid, any out lying slave, he or they shall be entitled to the same reward for every such apprehension and commitment.

Slaves, not to keep dogs,

Sec. 14. *And be it further enacted*, That all slaves be prohibited from keeping dogs, under any pretence or consideration whatsoever: and the slave or slaves so offending, upon complaint thereof before any justice of the peace, shall be punished with stripes not exceeding twenty-five, for every such offence: and the master or owner, who shall permit his slaves to keep dogs contrary to this law, shall forfeit and pay the sum of five dollars, for each and every dog so kept: to and for the use of the person complaining; and moreover, shall make good all damages done by dogs, appertaining to, or kept by any of his or her slaves.

Nor to own any horſe or mare.

Sec. 15. *And be it further enacted*, That no slave shall be allowed to own any horse, mare, gelding or mule: and if any slave shall actually own such property, the same shall be forfeited, and sold under the direction of the court of the county, where such property shall be so owned: one moiety of the proceeds for the use of the territory; and the other moiety to any person who shall sue for the same. It is also forbidden to slaves to keep hogs running at large; or to keep in inclosures more than they can conveniently maintain: the number of which to be regulated by the several owners; and to be distinctly marked; and register thereof made for the inspection of any person who shall require to see the same.

And whereas it has been the humane policy of all civilized nations, where slavery has been permitted, to protect this useful, but degraded class of men, from cruelty and oppression: Therefore,

No cruel puniſhment to be inflicted.

Sec. 16. *And be it further enacted*, That no cruel or unusual punishment shall be inflicted on any slave within this territory—and any owner of slaves authorising or permitting the same, shall, on conviction thereof, before any court, having cognizance, be fined according to the nature of the offence, and at the discretion of the court, in any sum not exceeding two hundred dollars, to, and for the use of this territory.

No ſlave to lift his hand againſt a white perſon.

Sec. 17. *And be it further enacted*, That if any slave shall at any time, lift his or her hand in opposition to any white person, he or she so offending, shall for every such offence, upon conviction, before a justice of the peace, of the county where such offence shall be committed, receive lashes, not exceeding twenty; on his or her bare back, well laid on, by order of such justice.

In caſe of their rebelling.

Sec. 18. *And be it further enacted*, That if any slave shall at any time consult, advise, or consult to rebel, or make insurrection; or shall plot, or conspire the murder of any person or persons whatsoever; every such slave consulting, plotting or conspiring, shall be adjudged and deemed felony; and the slave or slaves convicted thereof, in manner hereinafter directed, shall suffer death.

PART VII.

LAWS CONCERNING HIGHWAYS, COMMERCE, AMD AGRICULTURE.

CHAP. I.

An Act *to amend and reduce into one the several acts concerning public Roads, Highways, Ferries, and Bridges, within this Territory.*

(Paſſed the 1ſt March, 1805.)

What roads and ferries are declared to be public.

Power of county courts herein.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That all roads and ferries in the several counties of this territory, that have been laid out or appointed, by virtue of any act of Assembly, heretofore made, or by virtue of any order of court, are hereby declared to be public roads and ferries. And that from time to time, and at all times hereafter, the courts of the several counties in this territory, shall have full power to establish ferries, and determine the tolls of the same; and to order the laying out public roads where necessary; and appoint where bridges shall be made; and to discontinue such roads as now are, or shall hereafter be made, as shall be found useless: and to alter roads so as to make them more useful, as often as occasion shall require.

Sec. 2. *And be it further enacted,* That every county court within this territory is hereby authorised and empowered to call any person or persons in their respective counties to account for any monies such person or persons may have in his or their hands, by virtue of any distress heretofore made, or may hereafter be made, for default of working on any road in such county; and all such monies to receive and apply towards keeping in repair the roads and bridges on which such default was made.

Roads, how laid out.

Sec. 3. *And be it further enacted*, That all roads hereafter to be laid out, shall be laid out by a jury of free-holders, to be appointed by the county court, consisting of seven persons, to the greatest advantage of the inhabitants, and as little as may be to the prejudice of inclosures. Which laying out, and such damages as private persons may sustain, shall be done and ascertained by the same jury, on oath: which oath shall run in these words: to wit—"I, A. B. do solemnly swear, that I will lay out the road now directed to be laid out by the county court, to the greatest ease and advantage of the inhabitants; and with as little prejudice to inclosures as may be, without favour or affection, malice or hatred; and to the best of my skill and knowledge. So help me God."

And all damages hereafter to be assessed, shall be deemed a county charge, and be defrayed from a tax on each county, to be laid out for contingent charges.

Width, &c. of roads. cauſeways & bridges.

Sec. 4. *And be it further enacted*, That all roads so laid out, shall be deemed public roads, and shall be at least twenty feet wide. And where to the overseers of roads it may appear expedient to make or repair causeways on the same roads, they shall be at least twelve feet wide: and the earth necessary to raise and cover the said causeways, shall be taken from each side of the causeway, equally; and so as to form a drain on each side of the said causeway. And the overseers of roads are hereby directed to have compleatly cut, all trees and stumps, not to exceed six inches from the ground; and pared round the edges, in the highways, under their care. And all bridges hereafter directed to be made over small creeks, or runs, shall be twelve feet wide, as directed in the case of causeways.

Sec. 5. *And be it further enacted*, That where a bridge shall be necessary over any place, where the overseer with his assistance, cannot conveniently make it, the court of that county, wherein such place shall be, is hereby empowered and required to contract and agree for the building, keeping and repairing thereof; and to lay the charge on their county. And when bridges shall be necessary over any such creek or river which divides one county from another, the court of each county shall join in the agreement for building, keeping and repairing the same; and the charge thereof shall be defrayed by both counties, in proportion to the number of taxables in each.

Bridges, how to be built.

Contracts for building, &c. to be binding.

Sec. 6. *And be it further enacted*, That all and every contract, agreement, and order by the justices of the court of any of the counties aforesaid, entered into or made for, or concerning the building, keeping or repairing of bridges, in such a manner, as to them shall seem most proper, shall be good against them and their successors.

Toll-bridges, by whom built, how regulated, &c.

Sec. 7. *And be it further enacted*, That the justices of the courts, through whose counties run large water courses or creeks, which from the rapidity of the water, and width of the stream, may be too burthensome to build bridges, and keep them in repair by a tax on the inhabitants; it shall and may be lawful for a majority of the justices of such county court, where it may be necessary to contract with builders, to build toll bridges, or expensive causeways; for each of which, each court is hereby authorised and required to lay the toll, to be placed on all persons, horses, carriages and cattle passing over the same: and the revenue arising from which, for such a number of years as the said courts may agree upon to be granted unto the builders of such bridges; their heirs and successors for the building thereof. Which bridges being built under direction of the said courts, and the revenue arising from the toll thereof, so granted the said builder or builders, his or their heirs or successors, shall keep in constant repair, at his or their sole expence; in default of which, on conviction thereof, he or they are hereby declared to forfeit all right and title to the toll allowed by the court.

County court to divide roads.

Sec. 8. *And be it further enacted*, That the justices of the respective county courts shall have power, and they are hereby required to divide the public roads into precincts or districts; direct what persons shall work on each road, and in what precinct: and so that no person shall be compelled to work on more than one road, nor more than six days in one year upon any road.

And appoint overseers.

Sec. 9. *And be it further enacted*, That the courts of the several counties shall annually appoint overseers of the roads or highways: whose duty it shall be to give three days previous notice, by summons, in person, or in writing, left at their respective places of abode, to all free male persons, as well as to the owners, or overseers of all male slaves; from the age of sixteen years to fifty; residing within their respective precincts, except such persons as may be exempted from such service by law: to meet at such times and places as they may appoint, and to bring with them such tools to work with on the road as they may direct. And if any free person so summoned, shall fail to attend, or send a substitute to work in his place; or if any slave so summoned shall fail to attend accordingly, or when attending, shall neglect, or refuse to do and perform his or their duty therein: he or they shall forfeit and pay a fine of one dollar per day for every such failure, non-attendance or refusal; to be recovered by warrant from any justice of the county; and paid by the sheriff or constable to the overseer; one moiety thereof for his own use, the

Who liable to work.

Penalty for failure.

other moiety to be expended by him in hiring other hands to work on the said road; *Provided*, That when any fine forfeited under this act, shall exceed the sum of twenty dollars, the overseer shall make his return to the next county court of his proper county, which shall take cognizance thereof; and shall order the same to be collected and applied as other forfeitures under this act.

[illegible] against defaulting hands.

Sec. 10. *And be it further enacted*, That it shall be the duty of the overseer of the road to make a list of all free persons and slaves, by him summoned to work on the road, and to note thereon specially, the names of such free persons; and also the names of such slaves as may fail to attend; together with the names of the owners, or overseers of such slave or slaves as may fail to attend and perform their duty; and within three days of such failure, or non-attendance, deliver a copy thereof, signed with his own hand, to the nearest justice of the peace: whose duty it shall be, and he is hereby required to issue his warrant or warrants against such free persons, and also against the owners or overseers of such slaves, for the fine or fines incurred by this act, for such failure or non-attendance: *Provided*, That no warrant shall issue within eight days after such failure or non-attendance shall have happened: *And provided also*, That if any free person, who shall be so returned for non-attendance, or the owners or overseers of such slave or slaves as shall be so returned, shall within the aforesaid term of eight days, in person, or otherwise, shew good cause to the satisfaction of such justice of the peace, for such failure or non-attendance; then, and in every such case, a warrant shall not issue.

Sec. 11. *And be it further enacted*, That it shall be the duty of such justice to make due return of such list or lists of delinquents, and of the warrants by him issued thereon, to the next county court, to be held for his county for their information; and to enable them to enquire as to the collection and due application of the fines so incurred and collected.

Penalty, &c. on overſeer's refuſing to ſerve.

Sec. 12. *And be it further enacted*, That any person refusing to serve on any road as an overseer, agreeable to the order of the justices of the county court for the county in which he resides, shall forfeit and pay the sum of forty dollars; recoverable with costs of suit before any court having jurisdiction of the same. And the said person shall notify the clerk of his proper county, of his acceptance or refusal to act within fifteen days after he receives his appointment to the said office; under the penalty of ten dollars: to be recovered with costs of suit, before a justice of the peace in the county where the offence was committed: and to be collected and applied as other forfeitures under this act; and the clerk upon receiving such notice, shall report the same; to two justices of the peace of the neighbourhood where such overseer resided; who are hereby authorised and required to appoint a successor, to serve for the residue of the term: and such new overseer so appointed, shall be subject to the same penalties and forfeitures as the overseers appointed by the county courts; and the fines shall be recovered and applied in the same manner as is directed in the preceding part of this act. *Provided*, That no person shall be compelled to serve as an overseer of a road in any county more than one year in three.

How notified of their appointment.

Sec. 13. *And be it further enacted*, That the clerk of every county court, shall within ten days after the appointment of any overseer of a road deliver a copy of the order to the sheriff of the county under the penalty of five dollars. And the sheriff within ten days after the receipt of such order, shall deliver the same to the overseer, under the penalty of five dollars. And each clerk shall moreover, once in every year, fix up in his court house, a list of the names and precincts of all the overseers of roads in his county, under the penalty of ten dollars, for every neglect.

Overſeer to divide the labour.

Sec. 14. *And be it further enacted*, That it shall and may be lawful for any overseer, if required by a majority of the workmen on the road assigned him, to lay off such road in equal apartments, for the ease of the labourers; who shall finish his or their parts within the time agreed on between him, and each free person, master, mistress, or overseer; and in default of any agreeing party, the overseer is hereby authorised to cause such part to be finished by hire of other persons to do the same, and thereon to tender his account, and demand payment; and on refusal, to warrant for the same and recover the money for his own use: *Provided*, The time agreed on shall not exceed ten days.

Penalty for erecting impediments acroſs the public road.

Sec. 15. *And be it further enacted*, That if any person or persons whatsoever, shall erect, or cause to be erected across any public road, any bar or impediment, he shall be liable to pay to any person who may sue for the same, the sum of two dollars; to be recovered before any justice of the peace, to the use of the person who may sue for the same. *Provided always*, that no gate, or any toll bridge shall be considered as liable to the fine hereby imposed; and no person shall turn, alter or change any public road, unless it be by order of the court of the county; founded upon the report of a jury, appointed and sworn as in the case of laying out new roads, under the penalty of ten dollars for each month such road is turned out of the old course, without an order of court; to be recovered on a warrant, before any justice of the peace, by any person suing for the same: and that the old road shall in no case be shut up, until the overseer shall certify to the court, the new and opened road is in good and sufficient repair.

Penalty on overseers for neglect of duty.

Sec. 16. *And be it further enacted*, That all overseers of roads, who shall refuse or neglect to do their duty, as is by this act directed; or who shall not keep the roads and bridges clear and in good repair; or let them remain uncleared or out of repair, for and during the space of fifteen days; unless hindered by extreme bad weather, or other sufficient causes, to be adjudged of by the justice, such overseer shall forfeit, for each and every such offence, the sum of five dollars, over and above such damage as may be sustained; to be recovered by a warrant from any justice of the peace, by any person taking out the same; and to be applied to his own use.

What are deemed nuisances.

Sec. 17. *And be it further enacted*, That if any person shall fall a tree or brush, into any public road; and shall not remove and clear away the same within twenty-four hours; or shall kill or gird a tree within the distance of fifty feet of the out edge of any public road; and shall not remove and clear away the same within twenty-four hours; or shall kill or gird a tree within the distance of fifty feet of the out edge of any public road, except within an inclosure, it shall be deemed a nuisance. And every free man of full age, so offending, or the parent, master, or owner of every child, apprentice, servant, or slave, so offending, with his or her knowledge, shall forfeit and pay one dollar for every such offence: and where any fence shall be made across any public road, the owner or tenant of the land shall pay two dollars for every twenty-four hours the same shall be continued.

Sec. 17. *And be it further enacted*, That from, and after the passing of this act, the court of each and every county in this territory, shall have full

Perſons keeping public ferries, to give ſecurity, be liable for damages, &c.

power and authority, and they are hereby directed and required to compel all persons that now are, or hereafter shall be authorised to keep a public ferry; or who shall own a bridge, receiving toll within the said counties, to give good and sufficient security, in the sum of five hundred dollars; payable to the said court, and their successors; with condition, that he or they shall and will constantly find, provide, and keep good, sufficient boats, or other proper crafts; and keep such bridges in good repair: also the banks on each side of the water courses, as the case may be; and always to be well attended, for travellers or other persons, to carry or pass their horses, carriages and effects, over any river or creek, or over any such toll bridge. And if any person shall receive damages by any ferry-man or keeper of a toll-bridge, not having complied with the condition of his bond, the person receiving such damages, may bring an action of debt against such ferry-man or bridge-keeper, on such bond, in the name of the court of the proper county; and recover for non-performance of the said condition, so much damages as he, she or they shall appear to have sustained; and thereupon take out execution for whatever shall be so recovered; and apply the same to his, her or their own use. And it shall and may be lawful for any person detained at any public ferry, by reason of the ferry-man's not having sufficient boats, or other proper crafts, and hands, or by neglecting to do his duty, by a warrant from a justice of the peace, to recover of such ferry-man, the sum of ten dollars, for every default or neglect: *Provided*, That any such recovery shall not be deemed to bar any action for personal damages sustained by any person or persons, by reason of insufficiency of the said ferries and boats thereat, and bridges.

CHAP. II.

AN ACT *for improving the Navigation of the River named Bayau-Pierre, in Claiborne County.*

(Paſſed December 29, 1805.)

WHEREAS it has appeared to this General Assembly, that great benefit and advantage would arise to those living on the waters of, and adjacent to the aforesaid river, by employing a portion of the labour of the people of the said county, for the purpose of opening and removing rafts of timber, and such other obstacles as tend to obstruct the passage of boats and small craft, up and down the same; Therefore,

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That George W. Humphries, William Lindsey, Thomas White, Ezekiel Flowers, and Waterman Crane, be and they are hereby appointed commissioners; and they, or a majority of them, shall have full power to direct and superintend the application of such quantity of labour as may, from time to time be allowed by law, in opening and clearing the said river; with power to do or perform whatever by this act they shall be authorised and required to do.

Duty of commiſſioners.

Sec. 2. *And be it further enacted*, That each and every person subject by law to perform labour on the roads and highways, and living within five miles on either side of the said river, from the mouth thereof to the distance of five miles, above the Grindstone Ford, on the north fork; and five miles above A Hunt's plantation, on the south fork thereof; shall, in addition to the six days labour in each year; which by law, they are now liable to perform on the highways, be subject and liable to perform six days labour in each year, for the purpose afore-

Perſons reſiding within 5 miles, ſubject to labor, &c.

said; and be subject and liable to be called on by the aforesaid commissioners, or a majority of them, in the same manner, and under the same penalties, as they may now by law be called on by the overseers of the highways.

Power of the county court.

Sec. 3. *And be it further enacted*, That the court of the county of Claiborne, shall have power at their discretion, to direct and order, that any portion of the labour now liable to be performed on the highways, within the aforesaid limits, may and shall be applied towards the purpose of clearing the said river Bayou-Pierre, and under the superintendance of the commissioners aforesaid; and in the same manner as herein before directed. *Provided*, The same shall not exceed the one half of the whole number of days' labour, such inhabitants are by law now liable to perform: and it shall be their duty, and they are hereby required, as often as they may make any order to this effect, to certify the same to the aforesaid commissioners; who are hereby authorised and required to call for, and compel the doing and performing such labour, in the same manner as overseers of the highways may, or can now do.

CHAP. III.

AN ACT *authorising certain Commissioners therein named, to view and mark out the nearest and best Road from the City of Natchez, to Fort Stoddert, in the County of Washington, and to empower the said Commissioners to employ a fit Person to open the Road so laid out.*

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That Harry Toulmin, James Caller and Lemuel Henry, be, and they are hereby appointed commissioners to view and mark out the nearest and best road from the City of Natchez, to Fort Stoddert, in the County of Washington, so as to strike the new road on the line of demarcation east of Pearl river.

Sec. 2. *And be it further enacted*, That the said Commissioners be, and they are hereby empowered to employ a fit person to open and put in good repair the road so marked out, and to contract for the payment of such sum as may appear to them reasonable, for the performance of said work; to be paid out of the territorial treasury, after the fulfilment of the said contract: *Provided nevertheless*, That the said commissioners shall take bond with approved security from the undertaker, well and truly to perform the work aforesaid, in such penalty as they may deem proper; which bond shall be deposited by them in the office of the secretary of this territory: *Provided further*, That the sum to be expended for making and opening said road, shall not exceed three hundred dollars.

Sec. 3. *And be it further enacted*, That the said road when opened, shall be deemed and taken as a public highway, until the same shall be altered or changed by competent authority.

JOHN ELLIS *Speaker of the House of Representatives.*

JOSHUA BAKER, *President of the Legislative Council.*

Approved—*February* 4, 1807.

ROBERT WILLIAMS, *Governor of the Mississippi Territory.*

CHAP. IV.

AN ACT *concerning Strays, for improving the Breed of Horses, to prevent the Stealing of Cattle, and directing the Brands and Marks thereof to be recorded.*

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That every person who shall take up any stray, which shall be found upon his plantation or land, shall forthwith give information thereof, to some justice of the peace, for the county where such stray shall have been taken up; and make oath before such justice, that the same was taken up at his or her plantation, or place of residence, or on his land adjoining the same; and that the marks or brands have not been defaced or altered since the taking up; and thereupon the said justice shall issue his warrant to two disinterested freeholders of the neighbourhood, commanding them to view and appraise the same, without partiality, favour or affection; and certify the valuation under their hands; together with a particular description of the kind, marks, brands, stature, colour and age: which certificate shall by the justice be transmitted to the clerk of the county court, within ten days; to be by such clerk entered in a book to be kept for that purpose; for which the justice and clerk shall each receive fifty cents; to be paid by the taker up. And it shall be the duty of such clerk to cause a true copy of every such certificate and description to be publicly affixed at the door of his court house, during the entire continuance of two terms, next, after the same shall have been transmitted to him; for which he shall receive from the taker up, fifty cents: *Provided,* That if two or more strays of the same species are taken up by the same person, at the same

Information to be laid before a juſtice;

Tranſmitted to the county clerk,

And public notice given:

time, they shall be included in one entry and one advertisement; and the justice and clerk shall receive no more fees than for one of such strays.

Juſtices to have a pound erected, &c.

Sec. 2. *And be it further enacted*, That the justices of the several county courts within this territory shall cause a pound to be erected at their respective court houses, with a good and sufficient fence, and a gate or bars, where all stray horses, mares or mules, above two years old, taken up within the county, shall be kept on the first day of the two courts, whether county or superior courts, next succeeding the time at which they may be taken up, from twelve to four o'clock on each day, that the owner may have an opportunity of claiming his property; and the expence of making such pounds shall be defrayed out of the public treasury, on a certificate thereof made by such courts to the auditor of public accounts. And where any person, taking up such stray resides more than thirty miles from the court-house of his county, he shall not be compelled to exhibit the same more than once in the pound, which shall be on the first day of some court within six months after taking up. And the said justices shall appoint some person to take care of the said pound, and to attend the same on court days, who shall be entitled to demand from every person putting in a stray the sum of twenty-five cents, at every time the same may be put in, which shall be repaid by the owner thereof.

Strays, how diſpoſed of.

Sec. 3. *And be it further enacted*, That when the valuation shall be under twenty dollars, and no owner shall appear before the last day of the second term of the court, whereat the publication of the certificate and description aforesaid was made; then the court by their order, shall cause the said stray to be publicly sold at auction; and the monies arising therefrom, after deducting the reward of the taker up, and all other reasonable charges, to be valued by the court, shall be applied towards lessening the county taxes; and where the valuation shall exceed twenty dollars, the taker up shall within one month, from the time of appraisement, cause a true copy of the certificate, description and appraisement, together with notice where the stray is to be found, to be published three times in one of the public gazettes of this territory; and if no owner shall appear and prove his title thereto, within one year from the date of the first publication, then such stray shall be sold; and the monies arising from such sale, after deducting the reward of the taker up, valued by the court, and all other reasonable charges, shall be applied as above directed.

Probation after ſale.

Sec. 4. *And be it further enacted*, That if the owner of any such stray, shall appear and prove his or her property thereto, after the sale thereof, he or she shall be entitled to receive, by order of the court, the amount of the nett proceeds of such sale.

Sending ſtray out of the territory, &c.

Sec. 5. *And be it further enacted*, That if any person shall take or send away any stray out of this territory, on any pretence whatsoever; or shall trade, sell or barter the same; he or she, so offending shall forfeit and pay one hundred dollars; to be recovered in any court of this territory, having competent jurisdiction; one half to the informer, and the other half to the use of the county, wherein the offence shall have been committed; and moreover, shall pay to the owner the amount of the appraisement; or if no owner appears, then to the county, for the use of the owner: subject to the regulations of the second section.

Deaths or eſcapes.

Sec. 6. *And be it further enacted*, That if any strays so taken up, shall die, or accidentally get away, before the owner shall claim his or her right, the taker up shall not be answerable for the same; but if any person shall *immediately* use, or in any wise abuse any stray, he shall be liable to the owner: or if the owner does not appear, to the county, for double damages; and shall moreover forfeit his claim to all compensation for taking up, advertising and keeping such stray.

Stallions running at large.

Sec. 7. *And be it further enacted,* That if any person shall wilfully, or by neglect, suffer any stallion, above the age of two years, except such as are usually kept up, and happen to get out by accident, to run at large in the woods, or in any uninclosed range; it shall be lawful for any person to ketch and geld such stallion at the risk of the owner.

Penalty for offences against this act.

Sec. 8. *And be it further enacted,* That any person who shall presume to take up a stray of whatsoever description, contrary to the meaning of this act, shall for every such offence forfeit and pay one hundred dollars; recoverable with costs, in any court of this territory, having competent jurisdiction; one half to the county, and the other half to the person suing for the same.

CHAP. V.

AN ACT *concerning the Brands and Marks of Cattle and other Stock.*

Brands and ear marks.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened;* That every person in this territory, who hath any horses, cattle, or other stock, shall have a brand and ear mark, different from the ear mark and brand of every other person in the same county; which ear mark and brand shall be recorded in the office of the clerk of the county court of the county, where such horses, cattle, &c. are; for which the clerk shall receive as his fee, twenty-five cents, for all his services therein; and no brand or mark similar to a brand or mark already recorded, shall be admitted to record; but the person having the same, shall be obliged to alter them, except as herein after excepted.

Diſputed brands and marks.

Sec. 2. *And be it further enacted*, That when any dispute shall arise respecting the right to a brand or mark, either party may apply to a justice of the peace of the county, who shall summon the adverse party to appear before him, on a certain day therein expressed: not less than five nor more than ten days from time of application. And the said justice shall, upon the request of either party, issue subpœnas for such witnesses as they may require: directed to any constable of the said county; who, together with the same witnesses, shall receive the same fees, and be liable to the same penalties, as are allowed or inflicted for such services and attendance, or neglect in the county courts.—And it shall be the duty of the said justice to give judgment thereon; a transcript whereof, certified by the said justice, shall be a sufficient authority for the clerk to record the said brand and mark: *Provided*, That every person who may think himself or herself aggrieved thereby, may appeal to the next county court, to be held in the said county, and not after.

Slaves, &c. not to mark cattle.

Sec. 3. *And be it further enacted*, That no person whosoever, shall send or permit any slave or Indian to go into any of the woods or ranges in the territory, to brand or mark any horse, mare, colt, mule, ass, cattle, hog, sheep, under any pretence whatsoever; unless the said slave be in company, and under the direction of some reputable white person; who shall therein proceed according to the provisions of this act; and if any person be convicted thereof, he shall forfeit and pay for every animal so branded and marked, twenty dollars: recoverable by action of debt in any court in this territory having jurisdiction; one half to the use of the county, and the other half to the informer.

Sec. 4. *And be it further enacted*, That this act shall commence and be in force, from, and after the passing thereof.

CHAP. VI.

AN ACT *against Usury.*

(Paſſed March 1, 1805.)

Uſurious intereſt not recoverable.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That no person or persons whatsoever, shall take, directly or indirectly, for the loan of any money, wares, merchandize, or other commodity whatsoever, more than the value of six dollars for the forbearance or giving day of payment of one hundred dollars, for one year; and after that rate, for a greater or less sum, or for a longer or shorter time. And if it shall be ascertained, on the plea or answer of the defendant in any suit, that more than the rate of six dollars for the forbearance or giving day of payment, of one hundred dollars for one year; and after that rate for a greater or less sum, or for a longer or shorter time, be taken or received, in or by any bond or note whatever, for the payment of any principal or sum of money, goods, wares, merchandize, commodity or thing whatever, bought or sold; no interest or premium whatever, for forbearance, or giving day of payment, shall be allowed or received on such bond or note; but the principal sum only may be recovered.

Penalty for uſury.

Sec. 2. *And be it further enacted*, That if more than the rate of six dollars for the forbearance or giving day of payment for one hundred dollars for one year; and after that rate for a greater or less sum; or for a longer or shorter time, shall be taken, accepted, or received, by way of any corrupt bargain, loan, exchange, or interest of any money, wares, merchandize, commodities or other things, bought or sold, the same, together with the whole amount of interest taken, accepted or received therewith, may be recovered by any person paying the same, by action of trespass on the case, with costs of suit.

Rate of interest, in what cases allowable.

Sec. 3. *And be it further enacted*, That the rate of six dollars for the forbearance, or giving day of payment of one hundred dollars for one year; and after that rate for a greater or less sum; or for a longer or shorter time, may be taken, allowed and recovered on all bonds and notes in writing; ascertaining the sum due, after the same is due and payable.

CHAP. VII.

AN ACT *concerning Notaries Public.*

Governor to appoint notaries.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That the Governor shall appoint and commission a competent number of persons, of known good character, integrity and abilities, as notaries public of this territory; to reside at such place or places within the same, as the Governor shall in, and by their respective commissions direct; *Provided*, That there shall not be more than two notaries appointed and commissioned to reside in any one county in this territory.

Their powers.

Sec. 2. *And be it further enacted*, That the said notaries, so commissioned as aforesaid, and every of them, shall have the power of administering oaths and affirmations, according to law, in all matters belonging or incident to their notarial office: and all and every person that shall be legally convicted of having knowingly and wilfully made or taken a false oath or affirmation, before any notary, in any matter within his official duty, shall suffer the pains and penalties of wilful and corrupt perjury.

Sec. 3. *And be it further enacted*, That the said notaries, and every of them, shall have the power to receive the proof or acknowledgment of all instruments of writing relating to commerce or navigation; such as bills of sale, bottomries, mortgages and hypothecations of ships, vessels or boats, charter parties of affreightment, letters of attorney, and such other writings as are commonly proved or acknowledged before notaries within the United States; and also to make declarations, and testify the truth thereof, under their seal of office, concerning all matters by them done in their respective offices.

Sec. 4. *And be it further enacted*, That every of them, the said notaries shall keep fair registers of all official acts by them done in virtue of their office; and shall when thereunto required, give a certified copy of any record in his office, unto any person applying for the same; such person paying the legal fees for such certified copy.

In caſe of death, &c.

Sec. 5. *And be it further enacted*, That in case of the death, resignation, disqualification or removal of any of the said notaries, his registers and other public papers shall be lodged within thirty days next after such death, resignation, disqualification or removal, in the office of the clerk of the county court, of the particular county where he resided; and the said clerk may bring and maintain an action of trover and detinue for the same: such registers or public papers shall not in any case be liable to be seized, attached or taken in execution for debt, or for any demand whatever.

Sec. 6. *And be it further enacted*, That every notary shall provide a public notarial seal, with which he shall authenticate all his acts, instruments and attestations: on which seal shall be engraved the arms of this territory; and shall have for legend the name, surname, and office of the notary using the same; and the place of his residence.

To provide a ſeal.

Sec. 7. *And be it further enacted*, That every notary, on his appointment, and before he enters on the duties of his office, shall take and subscribe an oath or affirmation, that he "will well and truly perform the duties of his office; and also, that he will support the constitution of the United States and the ordinance of this territory." He also shall give a bond, himself in a sum not exceeding two thousand dollars: and two sureties, in a sum, not exceeding one thousand dollars each; conditioned for the faithful performance of the duties of his office. The amount of the said bond to be determined by the Governor; which obligation shall be recorded in the office of the clerk of the county court, within the county where the said notary may reside; and may be sued by any party or parties, injured in like manner, and with like effect as bonds given by sheriffs and coroners, for the faithful execution of their respective offices.

To take oath, and give bond.

CHAP. VIII.

AN ACT *authorising the laying out a Town in Washington County.*

WHEREAS sundry inhabitants of the county of Washington, near Fort Saint Stephens, by their petition have set forth to the Legislature, that it would be expedient and of great utility to themselves, and the inhabitants in general, to have a town laid out on the lands of Edwin Lewis, on the Tombigby river, near Fort Saint Stephens:

Sec. I. *BE it enacted by the Legislative Coun-*

cil and House of Representatives of the Mississippi Territory, in General Assembly convened. That John Baker, James Morgan and John F. M'Grew, be appointed commissioners, and they are hereby authorised to lay out a town (the streets of which shall not be less than one hundred feet wide) on the lands of the said Edwin Lewis, near Fort St. Stephens, reserving for the use of this territory, agreeably to the intention of the said Edwin Lewis, so much land in the said town, so to be laid out, for public purposes, as the aforesaid commissioners may think necessary, subject to the future disposal of the Legislature of the Mississippi Territory.

Sec. 2. *And be it further enacted,* That the said commissioners are hereby authorised and directed to receive of the said Edwin Lewis, a good and sufficient title to such reserved land, in behalf of the territory; and it shall further be the duty of the said commissioners, to deliver a plan of the said town by them so to be laid out, together with the title to such reserved land by them to be taken as aforesaid, to the clerk of the county court of said county, within one month after laying out the same; whose duty it shall be to record the said plan and title in his office.

Sec. 3. *And be it further enacted,* That the act entitled, "An act to authorise the laying out a town in Washington County, by the name of Miconsburg," passed the eleventh day of November, 1803, be and the same is hereby repealed.

H. HUNTER, *Speaker of the House of Representatives, pro tem.*

JOSHUA BAKER, *President of the Legislative Council.*

Agreed to—*January* 8, 1807.

COWLES MEAD, *Secretary, Executing the powers and performing the duties of Governor of the Mississippi Territory.*

PART VIII.

LAWS FOR THE ENCOURAGEMENT OF LEARNING.

CHAP. I.

AN ACT *to incorporate the Mississippi Society, for the Acquirement and Dissemination of useful Knowledge.*

(Paſſed November 8, 1803.)

WHEREAS certain persons lately associated themselves in this territory, for the laudable purposes of cultivating harmony, and of acquiring and disseminating useful information in natural science, and primarily agriculture; and whereas the members of that society have presented a petition to the legislature, setting forth the nature and views of this institution, and praying that the same may be incorporated by law; therefore,

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That Isaac Briggs, William C. C. Claiborne, William Dunbar, John Henderson, John Girault, Lewis Kerr, Joseph Briggs, David Lattimore, Joseph Macrery, Jesse Greenfield, Ferdinand L. Claiborne, Benjamin Farar, Israel E. Trask, Philander Smith, Adam Tooly, Samuel Briggs junior, Hore Browse Trist, John Ellis and William Connor, members of the said society; and such other persons as shall from time to time hereafter become members of the same, according to the constitution and laws thereof, as the same may have already been, and shall hereafter be ordained or enacted, shall be, and are hereby constituted and declared to be one body corporate and politic, in fact and name, by the title

Original members.

Incorporation.

Title, and powers.

of "THE MISSISSIPPI SOCIETY, FOR THE ACQUIREMENT AND DISSEMINATION OF USEFUL KNOWLEDGE:" and by that name, they and their successors, aforesaid, shall have perpetual succession. They shall have a common seal, which they may change and alter at their pleasure. That by the same name, they and their successors aforesaid, shall be persons capable in law, to purchase, take, receive, hold, and enjoy, to the use of them and their successors, all manner of real estate, fee simple, or lesser interest in real estate: and the same to lease, release, sell, alien and convey, at their pleasure: and all manner of goods, chattels and personal estate, in like manner, to purchase, receive and enjoy; and at their pleasure, sell, or otherwise dispose of. That by the same name they and their successors aforesaid, shall be persons capable and liable in law of suing and being sued, pleading and being impleaded, in all manner of actions, suits, and controversies in law, equity or otherwise; as far as corporations, from their nature, may be so capable and liable, according to the usual course of law.

Sec. 2. *And be it further enacted*, That the said society shall be in all things governed by such constitutions, bye-laws, and resolutions as may have already been, and shall hereafter be ordained, enacted, made, or passed for that purpose, in and by the said society. *Provided*, That such constitutions, bye-laws, rules and resolutions be not repugnant to the constitution of the United States, or the ordinance or laws of this territory, or of such state as may hereafter be erected, wherein the said society shall be.

Extenſion of this act.

Sec. 3. *And be it further enacted*, That this shall be, and be deemed a public act; and notice shall be taken thereof as such, in all courts of justice and elsewhere: and it shall and may be given in evidence on the trial of any issue, or otherwise, in any cause, without being specially pleaded.

CHAP. II.

AN ACT *to establish a College in the Mississippi Territory.*

Title.

Sec. 1. Whereas education conduces to the happiness and improvement of man, and is particularly necessary to the support and purity of republican governments; therefore, *Be it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That there shall be established in this territory, a College, which shall bear the name of JEFFERSON COLLEGE; in honor of Thomas Jefferson, President of the United States, and President of the American Philosophical Society.

Truſtees.

Incorporation.

Sec. 2. *And be it further enacted,* That the following persons: to wit—William C. C. Claiborne, Anthony Hutchins, William Dunbar, of Second Creek, Benjamin Farar, William Vousden, John Ellis, David Ker, Adam Bingaman, David Lattimore, Bernard Lintot, Cato West, John Girault, Thomas M. Green, Samuel Gibson, Daniel Burnet, Felix Hughes, Alexander Montgomery, Drury W. Brazeale, Thomas Calvit, James Caller, Nathaniel Christmas, John Steele, Abner Green, Sutton Banks, Abram Ellis, Richard Butler, Robert Dunbar, John Mac Grew, Jacob Stampley, Joseph Pannill, Isaac Guilliard, John Bisland, Abraham Green and James Hoggatt, shall be a body corporate, by the name of "The Trustees of Jefferson College:" and by that name shall be capable in law, to receive all donations, and recover all debts, which may become the property of the said college: and may in general, do all acts for the benefit of the institution, which are incident to bodies corporate.

Sec. 3. *And be it further enacted,* That the first meeting of the trustees shall be held on the

Time and place of meeting, &c.

first Monday in January next, at the town of Washington; where they shall proceed to chuse, out of their own body, a president and vice-president. The president, or in his absence, the vice-president, shall have power to call extraordinary meetings of the trustees, by giving ten days notice to each member, before such meeting shall be held. The ordinary meetings of the board shall be held on their own adjournments. Thirteen members shall constitute a quorum to do business at the first meeting; but at all subsequent meetings, seven may constitute a quorum to proceed to business. The president, or in his absence from the meeting, the vice-president shall preside; or in case of the absence of both, any member chosen by a majority of the members present, shall preside.

Preſident may call extra meetings.

Whereas it is necessary, that on extraordinary occasions, the board of trustees of Jefferson college should be called together at a short notice; and whereas, the mode provided for that purpose would often be attended with great delay; therefore, *Be it enacted*, That the president of the board of trustees of Jefferson college, or in his absence from the territory, the vice-president shall have authority to call a meeting of the said trustees at any time; provided, notice shall be given of such intended meeting, by advertising the same in one of the newspapers of this territory, twelve days before the said meeting shall be held.

Powers of the truſtees.

Sec. 4. *And be it further enacted*, That the board of trustees shall have power, and it shall be their duty, with all convenient speed, to fix on some healthy and central situation, whereat to establish the college, and to contract for the erecting of the necessary buildings. They shall also have power to engage a president, and other professors; a treasurer, and all necessary officers for conducting the civil and literary concerns of the college;

and to displace and supercede them at pleasure. They also shall have authority, and it shall be their duty to examine the proficiency of the students, and to confer the degrees of bachelor and master of arts: to make all laws and regulations which they shall judge necessary for the good government of the college, and for promoting morality and virtue among the students. They shall take effectual care, that students of all denominations, may, and shall be admitted to the equal advantages of a liberal education, and to the emoluments and honours of the college; and that they shall receive a like fair and generous treatment, during their residence thereat.

In caſe of death, &c.

Sec. 5. *And be it further enacted*, That in case of death, removal from the territory, resignation or refusal to act of any of the trustees, the board may, at any of their meetings, appoint a successor.

Truſtees to make a lottery, and receive donations.

Sec. 6. *And be it further enacted*, That as Jefferson college must for the present be supported by the voluntary contributions of the citizens, the board of trustees are authorised to raise, for the benefit of the said college, by a lottery; a sum not exceeding ten thousand dollars. They shall also collect donations from the citizens of the territory, and elsewhere. The names of such donors, with their donations annexed, shall be inscribed in a book kept for that purpose; and shall be preserved among the archives of the college; in order that posterity may know who were the benefactors of the institution.

Preſident, &c exempted from military duty.

Sec. 7. *And be it further enacted*, That the president, professors, tutors, and students of the college, shall be exempt from all militia duty, during their continuance as members of the college; except in a general invasion of the territory.

Sec. 8. *And be it further enacted*, That the lands, public buildings, and other property belonging to Jefferson college, are hereby declared to be free from every kind of public tax.

CHAP. III.

An Act *establishing a permanent Site for Jefferson College.*

(Paſſed November the 11th, 1803.)

WHEREAS the board of trustees of Jefferson college have by their petition, dated the twenty-fifth of July last, prayed the legislature to establish by law, the site of Jefferson college, in such position as is set forth in the said petition:—*Be it therefore enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That a certain donation of a parcel of land, including a spring, commonly called Ellicott's spring, presented by John and James Foster and Randal Gibson; to the said board of trustees, for the use of the said college; and such other adjoining parcel of land, to be procured by the said board; situated in the vicinage of the town of Washington, shall together, constitute a lot: within the limits of which shall be erected the buildings of the said college: and which said lot is hereby declared and established to be the permanent site of Jefferson college.

CHAP. IV.

An Act *to incorporate the Franklin Society.*

WHEREAS it has been made appear to the satisfaction of the General Assembly, that a number of the citizens of this territory have formed themselves into a society, called the Franklin Society, for the purpose of establishing an academy at the town of

Greenville, or its vicinity in the county of Jefferson; therefore, in order to enable said Society to carry said institution more fully into effect.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened*, That the following persons, members of said society, to wit: Cato West, Thomas M. Green, Thomas Fitzpatrick, John Shaw, Daniel Beasley, Charles Howell, William Snodgrass, David Snodgrass, Edward Turner, John Hopkins, Henry D. Downs, James S. Rollins, Thomas Calvit, Robert Cox, Henry Green, Felix Hughes, Armstrong Ellis, Jacob Stampley, John Brooks, Thomas Hinds, William Thomas, and Robert McCray, and such other persons as now are or shall from time to time, become members of the said society, shall be and are hereby ordained and constituted a body corporate, by the name of the "Franklin Society," and by that name they and their successors shall be persons in law, capable of suing and being sued, pleading and being impleaded, answering and being answered, defending and being defended in all courts and places whatsoever, in all manner of actions, suits, complaints, matters and causes whatsoever.

Members.

Title, and incorporation.

Sec. 2. *And be it further enacted*, That they and their successors may have a common seal, change and alter the same at their pleasure, and that they and their successors, by the same name, shall be persons capable in law to purchase, take, receive, hold and enjoy to them and their successors any real estate in fee simple, or for term of life or lives, or otherwise, and any goods, chattels, or personal estate, for the purpose of enabling them the better to carry into execution, encourage and promote such measures as may tend to promote said institution. *Provided always*, That the clear yearly value of such real and personal estate, shall not

Powers defined.

exceed the value of twenty thousand dollars, and that they and their successors shall have full power and authority to give, grant, sell, lease, demise and dispose of the said real and personal estate, or any part thereof, at their will and pleasure, and that they and their successors shall have power from time to time to make, constitute, ordain and establish such bye-laws, constitutions, ordinances and regulations as they shall judge proper, for the election of their officers, for the election and admission of new members of the said corporation, and the terms and manner of admission, for the better government and regulation of their officers and members, for the fixing the times and places of the meetings of the said corporation, and for the regulating all the affairs and business of the said corporation: *Provided*, Such bye-laws and regulations shall not be repugnant to the constitution and the laws of the United States and of this territory.

Sec. 3. *And be it further enacted*, That this act shall be deemed a public act, and taken notice of and given in evidence as such in all courts of law and equity in this territory, without special pleading.

H. HUNTER, *Speaker of the House of Representatives, pro tem.*
JOSHUA BAKER, *President of the Legislative Council.*

Agreed to—*January* 8, 1807.

COWLES MEAD, *Secretary,*
Executing the powers and performing the duties of Governor of the Mississippi Territory.

PART IX.

LAWS FOR THE RELIEF OF THE POOR AND SICK.

CHAP. I.

An Act *for the Settlement and Relief of the Poor.*

Overseers to be appointed.

Sec. 1. *BE it enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That it shall be the duty of the justices of the county courts, in their respective counties, at their first courts, which shall be held after the passing of this act: and yearly thereafter, to appoint one or more overseers of the poor in each captain's district, to serve for the term of one whole year, or until another overseer shall be appointed; and any person so appointed, who shall refuse or neglect to serve, as overseer of the poor, unless disqualified by age or infirmity, of which the justices shall judge, shall forfeit and pay fifty dollars; to be recovered with costs, by action of debt, in any court, having competent jurisdiction: for the use of the county. *Provided,* That no person holding any office or employment under the government, shall be compelled to serve as overseer of the poor, so long as he holds the same. In case of the refusal or inability of any person to serve as overseer of the poor, it shall be lawful for any three justices, during the vacation of the county court, to appoint a new overseer of the poor, for the remainder of the year, in room of the said person, unable or refusing to serve: which said new overseer shall be subjected to the same duties and penalties which were obligatory upon the person appointed overseer by the county court: and every overseer so nominated and appointed, shall immediately after his nomination, take an oath or affirmation, respectively, according to law, before any judge or justice, that he will discharge the duties of overseer of the poor truly, faithfully and impartially, to the best of his knowledge and ability.

Their duty. Sec. 2. *And be it further enacted*, That it shall be the duty of the overseers of the poor, each in his respective district, to provide for the indigent, lame, blind, and others not able to maintain themselves; and may also provide houses, nurses, physicians, in such cases as they shall think necessary; the expences of which shall be provided for in the annual county levy: and it shall be lawful for the overseers of the poor to contract with any person or persons for keeping, maintaining and employing any, or all such poor persons, and take the benefit of their work, labour or service, towards their maintenance and support. If any poor person, shall refuse to be lodged, kept, maintained and employed in such manner as the overseer shall direct, he or she shall be struck off from the overseer's list; and shall not be entitled to receive relief from the overseers during such refusal. The said overseers shall make fair entries in a book of the names of all the poor within their respective districts: with the time when each of them became chargeable; together with the amount of all charges, costs, and expences incurred, under the direction of the said overseers. Which books and accounts they shall be obliged to present twice in every year, for the inspection of the justices assembled in their county courts. And if the said justices shall approve the accounts of any such overseers, they shall issue a certificate to that effect, directing the county treasurer to pay the amount thereof to such person or persons to whom the same may be lawfully due.

Sec. 3. *And be it further enacted*, That if any

poor person shall suppose, that he or she is entitled to the benefit of the laws for the relief of the poor, which may have been refused by the overseer, such person may apply to the county court, or during the recess, to any two justices, who are authorised if they shall think proper, to direct the the overseer to receive him or her upon the list of the poor; which overseer is bound to yield obedience to the directions of the said court or justices.

oor perso refused reli by them.

Sec. 4. *And be it further enacted*, That the overseers shall take measures to prevent the poor from strolling from one district into another, and may make complaint before any justice, that any poor person is come into their county, and is likely to become chargeable thereto, whereupon it shall be lawful for such justice, by warrant under his hand, to cause such poor person to be removed to the county where he or she was last settled. *Provided*, That such poor person hath not been resident for six months last past in the county from which it is proposed to remove him or her. But if such poor person be sick or disabled, and cannot be removed without danger of life, the overseer shall provide for his or her maintenance and cure, at the charge of his or her county; and after recovery, shall cause him or her to be removed: and the county wherein he or she was legally settled, shall repay all charges occasioned by the sickness, maintenance and cure of such poor person, and for removing him or her: and also all charges or expences, if such person shall die before removal: and it shall be the duty of the overseer of the district to which the person belongs, to receive and provide for the person or persons so removed: and in case of refusal, the said person or persons may apply to any two justices of the county, for relief, as herein before directed. The overseer who shall have made the disbursement, being furnished with

To prevent the poor leaving their proper county.

a certificate of the said expenditure, by the justices of the county court of his proper county, shall apply to the justices of the county court, to which the said poor person or persons shall belong.—Which said justices last mentioned, are hereby directed to draw an order on the treasurer of their proper county, for the reimbursement of the said expences.

Diſpute reſpecting reſidence.

Sec. 5. *And be it further enacted*, That where any dispute shall arise respecting the residence of any poor person, the court of any county adjacent, and not interested, is authorised to take cognizance thereof, and determine the same.

Poor orphans and children.

Sec. 6. *And be it further enacted*, That the overseers of the poor shall make returns to the county courts, twice a year, of the poor orphans in their districts, and of such children within the same; whose parents they shall judge incapable of supporting them, and bringing them up in honest ways. The said courts are hereby authorised to direct the said overseers, or either of them, to bind out such poor orphans and children apprentices, to such person or persons whom the court shall approve; until the age of eighteen years, if a male: or sixteen years, if a female. The person to whom such apprentice shall be bound, shall engage by a covenant, to be entered in the indenture, to provide the apprentice with a sufficiency of good and wholesome provisions, necessary cloathing, washing and lodging: to teach the said apprentice the business or occupation which he pursues for a livelihood: and also to read, write and cypher, as far as the rule of three: and at the expiration of the said apprenticeship, to furnish the said apprentice with one complete new suit of cloathing, and two shirts: if a female, one complete new suit of cloths and two shifts.

It shall be lawful for the said court, upon the complaint of the overseers of the poor, or of any apprentice, by themselves, or friends, against their masters or mistresses, to hear and determine; and if it shall appear to the satisfaction of the court, that such complaint be well founded, and of sufficient magnitude to make a removal necessary, the court shall have power to remove such apprentice, and bind him or her to such other person as they shall think proper.

Poor of corporate towns.

Sec. 7. *And be it further enacted*, That any corporate town, which may now or hereafter exist within this territory, is hereby empowered and required to provide for and maintain the poor within the limits of their said town, separately and distinctly from the poor of the county: and any two magistrates of any corporation court, are hereby empowered by a warrant under their hands, to cause to be removed, any poor person, to the place of his or her legal residence, who hath not been resident within the limits of such town for six months last past, before such removal: and in like manner the overseers of the poor within the county may apply to any justice, who is hereby authorised and required, by warrant under his hand, to cause to be removed into any corporate town, any poor person, who shall have left his usual residence in such town, and gone into the county; and the corporations of the said town are hereby empowered by a poll-tax, or by a tax on property, to levy and assess annually, upon their respective towns, all charges incurred for the support and maintenance of their poor.

Who to maintain their poor relations.

Sec. 8. *And be it further enacted*, That the father and grandfather, the mother and grandmother, and the descendants of any poor, old, blind, lame, and impotent person, or other person not able to work, being of sufficient ability, shall at their own charge, relieve and maintain every such poor person, as the justices shall direct at their next county court, in their respective counties; or the corporation courts in their respective towns, on pain of forfeiting eight dollars for each month they shall fail therein.

Penalty for bringing any infant, lunatic, &c. into the territory.

Sec. 9. *And be it further enacted*, That if any person commanding a ship, vessel or boat, shall import into this territory, or bring to the shores thereof, any infant, lunatic, maimed, aged, infirm person, or vagrant, who may be judged to become likely to be chargeable to the territory: it shall be lawful for any justice of the county court, or for any magistrate of a corporation court, to compel such person commanding such vessel, to give sufficient security to indemnify the inhabitants of this territory from any charge that may come, or be brought upon them by such infant, lunatic, maimed, aged, infirm or vagrant person, coming into, or living within this territory, or otherwise to transport such person beyond the limits of this territory.

CHAP. II.

AN ACT *to establish a Hospital in the City of Natchez, and for incorporating Trustees of the same.*

(Paſſed January 18th, 1805)

Preamble.

WHEREAS great numbers of sick and distressed boatmen, employed in the navigation of the river Mississippi, and other indigent persons, destitute of the means of procuring medical assistance, are found in the city of Natchez, and other parts of this territory; for the relief of whose wants, private charity and present legal regulations are inadequate, and subscriptions to a considerable amount having been raised, and the sum of one thousand dollars bequeathed by the late George Cochran, Esq. for the purpose of establishing a hospital in the said city; and whereas David Lattimore, Garrett E. Pendergrast, William Lyon; Joseph Macrery, James Speed, Andrew Macrery and Frederick Seip, physicians of that place, have humanely proffered their professional services gratis, for the benefit of such an institution:—

Hoſpital eſtabliſhed.

Sec. 1. *BE it therefore enacted by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That there be erected and established in the city of Natchez, a hospital, for the reception and relief of indigent boatmen, and other paupers, of every description in this territory, who may be in want of medical aid and assistance; and who, if out of the limits of the city, may be sent thither by order of any justice at the expence of his proper county; to be called and known by the name of the "Natchez Hospital:" to be under the care, government and regulation of a body politic and corporate, as herein after provided.

Incorporation of truſtees.

Sec. 2. *And be it further enacted,* That John Steele, Adam Bingaman, William Brooks, William G. Forman, Abijah Hunt, John Girault, Ferdinand L. Claiborne, Samuel Postlethwait, junr. John Henderson, and Job Routh; together with the Mayor of the city of Natchez, for the time being, be, and they are hereby created a body politic and corporate, by the name of "The President and Trustees of the Natchez Hospital:" and that they and their successors duly elected members of the said corporation, shall be and remain a body politic and corporate by that name, forever: and they and their successors shall be persons in law, capable of suing and being sued, pleading and being impleaded, in all courts and places whatsoever: and may have a common seal, and alter and change the same at pleasure. They and their successors shall

Powers defined.

by the same name in law be capable of receiving, purchasing, holding and conveying any estate, real or personal, for the institution and use of the said hospital: all subscriptions, donations, grants, gifts, bequests and devises made, or that may be made, for the institution and use of the said hospital, shall appertain to, and rest in the said corporation, by the aforesaid name, for the use and benefit of the said hospital, and for effecting the purposes and intentions of doners and grantors.

Number of trustees.

Sec. 3. *And be it further enacted*, That the number of the said trustees, including the president shall not exceed eleven: six of whom shall be a quorum to do any business in their corporate capacity; the Mayor of the city of Natchez, shall, *ex officio*, be president; but in his absence, a president, *pro tempore*, may be elected. The said president and trustees shall have power from time to time, to fill up all vacancies that may happen in the said corporation, by the election of suitable persons as successors; they shall have power and authority to determine the time and place of their meetings, and the manner of notifying the same.

Further powers.

Truſtees to elect a treaſurer.

Sec. 4. *And be it further enacted*, That the said president and trustees shall elect from their own body a treasurer, who shall give bond and security to the said corporation, in the sum of ten thousand dollars; conditioned for the faithful performance of the duties of his office, and for rendering a just and true account of all monies, securities and property of every kind, coming into his possession as treasurer, when, and as often as thereto required. All deeds, signed and delivered by the said treasurer, by order of the said president and trustees, sealed with their seal, shall, when made in their corporate name, be considered in law as the deed of the said corporation. All monies, securities, and other property of the said president and trustees, coming

His duty.

the hands of the said treasurer; together with all books, in which his accounts as treasurer, are entered and kept, and all papers and vouchers thereto appertaining, that may be in his hands at the expiration of his office, shall, on demand of him, his executors or administrators, be paid and delivered over to his successors. All monies recovered on the treasurer's bond, shall be paid to the president and trustees, for the uses, and subject to the appropriations aforesaid.

Preſident &c. to employ phyſicians.

Sec 5. *And be it further enacted*, That the said president and trustees shall have power and authority from time to time, and at all times hereafter, to employ physicians and surgeons to attend the said hospital, with such powers, and under such regulations as the said president and trustees shall deem expedient: *Provided*, That such physicians and surgeons shall be of the city of Natchez, so long as the medical faculty in that place will attend the institution gratis. The said president and trustees shall have power and authority to elect and appoint managers, overseers, or stewards of the said hospital: and all necessary officers and servants; to declare the tenures, salaries, emoluments and duties of officers; to determine the mode of ascertaining what description of persons or patients are entitled to admission into the said hospital, and to benefits of the institution, gratis: what description of persons or patients shall be admitted on terms of compensation, and the quantum thereof; to make and ordain all reasonable rules, ordinances and bye-laws, not repugnant to the ordinances and laws of this territory; with reasonable penalties for the good government of the said institution.

And appoint managers, fix their ſalaries, &c.

To erect a houſe, &c.

Sec. 6. *And be it further enacted*, That the said president and trustees be, and they are hereby empowered, to erect and keep in repair, one or more house or houses, for a hospital, and such other buildings, as they may deem necessary for the said institution.

Reſervation of the legiſlative power.

Sec. 7. *And be it further enacted*, That the legiſlature of this territory may grant any further powers to, or alter, limit, annul or reſtrain any of the powers by this act veſted in the ſaid corporation, as ſhall be judged neceſſary to promote the benevolent objects and beſt intereſt of the ſaid institution.

A LIST OF THE

PRIVATE ACTS,

PASSED AT THE FIRST SESSION OF THE FOURTH GENERAL ASSEMBLY.

AN ACT for the relief of James Garland.

An Act to emancipate a certain slave therein mentioned.

An Act to divorce Jane Howard from her husband Edward Howard.

An Act to divorce Esther Kelcrease from Robert Kelcrease her husband.

An Act to divorce Helena Sanders from her husband Henry Sanders.

An Act to divorce Sarah Dawson from John Dawson her husband.

A Resolution in favor of William H. Lovelace.
- - - - - - - William Nichols.
- - - - - - - Edmund Curtis.
- - - - - - - William Rankins.
- - - - - - - Francis Nailor,
- - - - - - - Francis Nailor.
- - - - - - - Theodore Stark.
- - - - - - - Joshua Downs and Beverly R. Grayson.
- - - - - - - Beverly R. Grayson, Auditor of Public Accounts.
- - - - - - - Natt Christmas.
- - - - - - - George Pope.
- - - - - - - Ralph Regan.
- - - - - - - Theodore Brightwell.
- - - - - - - James Foster.

LAWS OF THE UNITED STATES.

PART I.

THE CONSTITUTION

OF THE UNITED STATES OF AMERICA,

AS PROPOSED BY THE CONVENTION, HELD AT PHILADELPHIA, SEPTEMBER 17, 1787, AND SINCE RATIFIED BY THE SEVERAL STATES: WITH THE SEVERAL AMENDMENTS THERETO.

WE, *the People of the* UNITED STATES, *in order to form a more perfect Union, establish Justice, insure Domestic Tranquillity, provide for the Common Defence, promote the General Welfare, and secure the Blessings of Liberty to Ourselves and our Posterity*, DO *ordain and establish this* CONSTITUTION *for the United States of* AMERICA.

ARTICLE I.

SECTION I.

Of the legiſlative power.

ALL legislative powers herein granted shall be vested in a CONGRESS of the United States, which shall consist of a Senate and House of Representatives.

SECTION II.

Of the Houſe of Repreſentatives.

The House of Representatives shall be composed of members chosen every second year, by the people of the several states; and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to serve for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each state shall have at least one Representative; and until such enumeration shall be made, the state of *New-Hampshire* shall be entitled to choose three, *Massachusetts* eight, *Rhode-Island* and *Providence Plantations* one, *Connecticut* five, *New-York* six, *New-Jersey* four, *Pennsylvania* eight, *Delaware* one, *Maryland* six, *Virginia* ten, *North-Carolina* five, *South-Carolina* five, and *Georgia* three.

When vacancies happen in the representation of any state, the executive authority thereof shall issue writs of election, to fill such vacancies.

The House of Representatives shall choose their Speaker, and other officers, and shall have the sole power of impeachment.

SECTION III.

Of the Senate.

The Senate of the United States shall be composed of two Senators from each state, chosen by the legislature thereof, for six years; and each Senator shall have one vote.

Immediately after they shall be assembled, in consequence of the first election, they shall be divided, as equally as may be, into three classes—The seats of the Senators of the first class shall be vacated at the expiration of the second year: of the second class at the expiration of the fourth year; and of the third class at the expiration of the sixth year; so that one third may be chosen every second year: and if vacancies happen by resignation or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments, until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a Senator, who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The Vice-President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

The Senate shall choose their other officers, and also a President pro tempore, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

The Senate shall have the sole power to try all impeachments: When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside. And no person shall be convicted, without the concurrence of two thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment and punishment according to law.

SECTION IV.

Manner of electing members.

The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each state by the legislature thereof: but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators.

Congreſs to aſſemble annually.

The Congress shall assemble at least once in every year; and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SECTION V.

Powers of each Houſe.

Each House shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorised to compel the attendance of absent members, in such manner, and under such penalties, as each House may provide.

Each House may determine the rules of its proceedings, punish its members for disorderly behaviour, and with the concurrence of two-thirds, expel a member.

Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question, shall at the desire of one fifth of those present, be entered on the journal.

Neither house, during the session of Congress, shall without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SECTION VI.

The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

Compenſation, privileges and incapacities of the members.

No Senator or Representative shall during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either House during his continuance in office.

SECTION VII.

All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

Manner of paſſing bills, orders, &c.

Every bill which shall have passed the House of Representatives and the Senate, shall before it become a law, be presented to the President of the United States; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered: and, if approved by two-thirds of that House, it shall become a law. But in all such cases, the votes of both Houses shall be determined by yeas and nays: and the names of the persons voting for and against the bill, shall be entered on the journal of each House respectively;

If any bill shall not be returned by the President, within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment, prevents its return; in which case it shall not be a law.

Every order, resolution or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question o adjournment) shall be presented to the President o the United States; and before the same shall tak effect, shall be approved by him; or being disapproved by him, shall be re-passed by two-thirds o the Senate and House of Representatives, according to the rules and limitations prescribed in th case of a bill.

SECTION VIII.

The Congress shall have power

Powers of Congreſs.

To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the commo defence and general welfare of the United States but all duties, imposts and excise shall be unifor throughout the United States;

To borrow money on the credit of the Unite States;

To regulate commerce with foreign nations, an among the several states, and with the Indian tribes

To establish an uniform rule of naturalizatio and uniform laws on the subject of bankruptcie throughout the United States;

To coin money, regulate the value thereof, an of foreign coin; and fix the standard of weights an measures;

To provide for the punishment of counterfeitin the securities and current coin of the United States

To establish post-offices and post-roads;

To promote the progress of science and usef arts, by securing, for limited times, to authors an inventors, the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the supreme court: to define and punish piracies and felonies committed on the high seas, and offences against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies; but no appropriation of money to that use, shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions;

To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings;—And

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

SECTION IX.

Limitations of the powers of Congreſs.

The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

No bill of attainder, or expost facto law shall be passed.

No capitation, or other direct tax, shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

No tax or duty shall be laid on articles exported from any state. No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to or from one state, be obliged to enter, clear or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money, shall be published from time to time.

No title of nobility shall be granted by the United States; and no person, holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office or title, of any kind whatever, from any king, prince or foreign state.

SECTION X.

No state shall enter into any treaty, alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder; ex post facto law, or law impairing the obligation of contracts: or grant any title of nobility.

Limitation of the powe of the indiv dual ſtates

No state shall, without the consent of the Congress, lay any imposts or duties on any imports or exports, except what may be absolutely necessary for executing its inspection laws: and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress. No state shall without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

Section I.

The Executive Power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows:

The Executive Power be veſted in Preſident.

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the state may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

Manner of electing th Preſident & Vice Preſident.

The electors shall meet in their respective states, and vote, by ballot, for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each: which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose, by ballot, one of them for President; and if no person have a majority, then, from the five highest on the list, the said House shall, in like manner, choose the President. But in choosing the President, the votes shall be taken by states, the representation from eash state having one vote: a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more, who have equal votes, the Senate shall choose from them, by ballot, the Vice-President.

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes, which day shall be the same throughout the United States.

Vho may be
ected Presi-
ent.

No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office, who shall not have attained to the age of thity-five years, and been fourteen years a resident within the United States.

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Vice Preſi
dent, &c.

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President; and the Congress may; by law; provide for the case of removal, death, resignation or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

Preſident's compenſa tion.

The President shall; at stated times, receive for his services, a compensation which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enters on the execution of his office he shall take the following oath, or affirmation:

His oath.

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

SECTION II.

Powers an
duties of
Preſident.

The President shall be commander in chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United states; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offences againſt the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur, and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: But the Congress may, by law, vest the appointment of such inferior officers as they think proper, in the President alone, in the courts of law, or in the heads of departments.

The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

SECTION III.

He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration, such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SECTION IV.

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fficers may
removed
om office.

The President, Vice President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

SECTION I.

The judicial power of the United States shall be

Of the judicial power.

vested in one supreme court, and in such inferior courts as the Congress may, from time to time, ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behaviour, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

Concerning the judges.

SECTION II.

Extent of the judicial power.

The Judicial power shall extend to all cases in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; between a state and citizens of another state, between citizens of different states, between citizens of the same state claiming lands under grants of different states; and between a state, or the citizens thereof, and foreign states, citizens or subjects.

Of the original and appellate juriſdiction of the ſupreme court.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the Congress shall make.

Of trials for crimes.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

SECTION III.

Of treaſon.

Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV.

SECTION I.

Faith to be given to public acts, &c. of each ſtate.

Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may, by general laws, prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

SECTION II.

Privileges of citizens to extend through all the ſtates.

The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

Fugitives from juſtice to be delivered up.

A person charged in any state with treason, felony, or other crime, who shall flee from justice and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

Perſons held to ſervice or labour, to be delivered up.

No person held to service or labour in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labour, but shall be delivered up on claim of the party to whom such service or labour may be due.

SECTION III.

New states may be admitted by the Congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the Congress.

New ſtates may be admitted.

The Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

Diſpoſal of territory and other property of the United States.

SECTION IV.

The United States shall guarantee to every state in this Union, a republican form of government, and shall protect each of them against invasion, and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

Guarantee and protection of the ſtates by the union.

ARTICLE V.

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; Provided, that no amendment, which may be made prior to the year one thousand eight hundred and eight, shall, in any manner, affect the first and fourth clauses in the ninth section of the first Article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.

Of amendments to the conſtitution.

ARTICLE VI.

Former debts and engagements to remain valid.

All debts contracted, and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Conſtitution, the laws and treaties of the U. S to be the ſupreme law of the land.

This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding.

Oath to ſupport the conſtitution.

The Senators and Representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound, by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust, under the United States.

There ſhall be no religious teſt.

ARTICLE VII.

When this Conſtitution ſhall take effect.

The ratification of the Conventions of nine states shall be sufficient for the establishment of this Constitution, between the states so ratifying the same.

Done in Convention, by the unanimous consent of the States present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the Independence of the United States of America, the twelfth. In witness whereof, we have hereunto subscribed our names.

GEORGE WASHINGTON, *President*,
And deputy from Virginia.

New-Hampshire.
John Langdon,
Nicholas Gillman.

Massachusetts.
Nathaniel Gorham,
Rufus King.

Connecticut.
William Saml. Johnson,
Roger Sherman.

New York.
Alexander Hamilton.

New-Jersey.
William Livingston,
David Brearly,
William Paterson,
Jonathan Dayton.

Pennsylvania.
Benjamin Franklin,
Thomas Mifflin,
Robert Morris,
George Clymer,
Thomas Fitzsimons,
Jared Ingersoll,
James Wilson,
Gouverneur Morris.

Delaware.
George Reed,
Gunning Bedford, jun.
John Dickinson,
Richard Bassett,
Jacob Broom.

Maryland.
James M'Henry,
Daniel of St. Th. Jenifer,
Daniel Carroll.

Virginia.
John Blair,
James Madison, jun.

North-Carolina.
William Blount,
Richard Dobbs Spaight,
Hugh Williamson.

South-Carolina.
John Rutledge,
Charles C. Pinckney,
Charles Pinckney,
Pierce Butler.

Georgia.
William Few,
Abraham Baldwin.

Attest, WILLIAM JACKSON, *Secretary.*

IN CONVENTION,

MONDAY, SEPTEMBER 17th, 1787.

PRESENT—*The States of New-Hampshire, Massachusetts, Connecticut, Mr. Hamilton from New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina and Georgia.*

RESOLVED,

THAT the preceding Constitution be laid before the United States in Congress assembled, and that it is the opinion of this Convention, that it should afterwards be submitted to a Convention of Delegates, chosen in each state by the people thereof, under the recommendation of its legislature, for their assent and ratification: and that each convention, assenting to, and ratifying the same, should give notice thereof to the United States, in Congress assembled.

RESOLVED, That it is the opinion of this Convention, that as soon as the Conventions of nine states shall have ratified this Constitution, the United States in Congress assembled should fix a day on which electors should be appointed by the states which shall have ratified the same, and a day on which the electors should assemble to vote for the President, and the time and place for commencing proceedings under this Constitution: That after such publication the electors should be appointed, and the Senators and Representatives elected; That the electors should meet on the day fixed for the election of the President, and should transmit their votes, certified, signed, sealed and directed, as the Constitution requires, to the Secretary of the United States, in Congress assembled: that the Senators and Representatives should convene at the time and place assigned; that the Senators should appoint a President of the Senate, for the sole purpose of receiving, opening, and counting the votes for President; and, that after he shall be chosen, the Congress, together with the President, should, without delay, proceed to execute this Constitution.

By the unanimous order of the Convention,

GO: WASHINGTON, *President.*

W. JACKSON, *Secretary.*

IN CONVENTION,

SEPTEMBER 17th, 1787.

SIR,

WE have now the honor to submit to the consideration of the United States in Congress assembled, that Constitution which has appeared to us the most adviseable.

The friends of our country have long seen and desired, that the power of making war, peace and treaties, that of levying money, and regulating commerce, and the correspondent executive and judicial authorities, should be fully and effectually vested in the general government of the Union: but the impropriety of delegating such extensive trust to one body of men, is evident—Hence results the necessity of a different organization.

It is obviously impracticable in the federal government of these states, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all—Individuals entering into society must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstance, as on the object to be obtained. It is at all times difficult to draw with precision the line between those rights which must be surrendered, and those which may be reserved: and on the present occasion this difficulty was increased by a difference among the several states as to their situation, extent, habits, and particular interests.

In all our deliberations on this subject, we kept steadily in our view, that which appears to us the greatest interest of every true American, the consolidation of our union, in which is involved our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each state in the Convention to be less rigid on points of inferior magnitude, than might have been otherwise expected; and thus the Constitution, which we now present, is the result of a spirit of amity, and of that mutual deference and concession, which the peculiarity of our political situation rendered indispensible.

That it will meet the full and entire approbation of every state is not, perhaps, to be expected; but each will doubtless consider, that, had her interest been alone consulted, the consequences might have been particularly disagreeable or injurious to others; that it is liable to as few exceptions as could reasonably have been expected, we hope and believe; that it may promote the lasting welfare of that country so dear to us all, and secure her freedom and happiness, is our most ardent wish.

With great respect,
We have the honor to be,
S I R,
Your Excellency's most obedient
And humble servants,
GEORGE WASHINGTON, *President.*
By unanimous order of the Convention,
His Excellency the President of Congress.

CONGRESS OF THE UNITED STATES,

BEGUN AND HELD AT THE CITY OF NEW-YORK, ON WEDNESDAY THE FOURTH OF MARCH, ONE THOUSAND SEVEN HUNDRED AND EIGHTY-NINE.

The Conventions of a number of States, having, at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And, as extending the ground of public-confidence in the government, will best insure the beneficent ends of its institution:

RESOLVED *by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring*, That the following articles be proposed to the legislatures of the several states, as amendments to the Constitution of the United States, all or any of which articles, when ratified by three-fourths of the said legislatures, to be valid to all intents and purposes, as part of the said Constitution; viz.

Articles in addition to, and amendment of, the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth article of the original Constitution.

ARTICLE I.

AFTER the first enumeration required by the first article of the Constitution, there shall be one representative for every thirty thousand, until the number shall amount to one hundred, after which the proportion shall be so regulated by Congress, that there shall be not less than one hundred representatives, nor less than one representative for every forty thousand persons, until the number of representatives shall amount to two hundred; after which the proportion shall be so regulated by Congress, that there shall be not less than two hundred representatives, nor more than one representative for every fifty thousand persons.

ARTICLE II.

No law varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.

ARTICLE III.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE IV.

A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ARTICLE V.

No soldier shall in time of peace be quartered in any house, without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

ARTICLE VI.

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE VII.

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE VIII.

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favour, and to have the assistance of counsel for his defence.

ARTICLE IX.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact, tried by a jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

ARTICLE X.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE XI.

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE XII.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

THIRD CONGRESS OF THE *UNITED STATES.*

At the second session, begun and held at the city of Philadelphia, in the state of Pennsylvania, on Monday, the second of December, one thousand seven hundred and ninety-three.

RESOLVED, *by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring*, That the following Article be proposed to the legislatures of the several states; as an amendment to the Constitution of the United States; which, when ratified by three-fourths of the said legislatures, shall be valid, as part of the said Constitution, viz:

The Judicial Power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against any of the United States by citizens of another state, or by citizens or subjects of any foreign state.

FREDERICK A. MUHLENBERG,
Speaker of the House of Representatives.
JOHN ADAMS, *Vice-President of the United States, and President of the Senate.*

Attest,
JOHN BECKLEY, *Clerk of the House of Representatives.*
SAMUEL A. OTIS, *Secretary of the Senate.*

AMENDMENT

TO THE

CONSTITUTION OF THE UNITED STATES.

As ratified by the constitutional number of the legislatures of the several states, in the year one thousand eight hundred and four.

EIGHTH CONGRESS OF THE UNITED STATES.

At the first session, begun and held at the City of Washington, in the territory of Columbia, on Monday, the seventeenth of October, one thousand eight hundred and three.

RESOLVED *by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring*, That in lieu of the third paragraph of the first section of the second article of the Constitution of the United States, the following be proposed as an amendment to the Constitution of the United States, which when ratified by three-fourths of the legislatures of the several states, shall be valid to all intents and purposes, as part of the said constitution, to wit;

The electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least shall not be an inhabitant of the same state with themselves; they shall name in their ballots the persons voted for as President, and in distinct ballots the person voted for as Vice President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the President of the Senate: the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted: The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.

The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice President: a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice:

But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

Attest,

JOHN BECKLEY,

Clerk of the House of Representatives of the United States.

SAM: A. OTIS,

Secretary to the Senate of the United States.

PART II.

LAWS RELATING TO THE MISSISSIPPI TERRITORY.

AN ACT *for an amicable Settlement of Limits with the State of Georgia, and authorizing the Establishment of a Government in the Mississippi Territory.*

Preſident authorized to appoint commiſſioners to adjuſt the interfering claims to certain territory,

and to receive propoſals for the ceſſion of other territory claimed by Georgia.

Sec. 1. *BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the President of the United States be, and he hereby is authorised to appoint three commissioners ; any two of whom shall have power to adjust and determine with such commissioners as may be appointed under the legislative authority of the state of Georgia, all interfering claims of the United States and that state, to territory situate west of the river Chatahouchee, north of the thirty-first degree of north latitude, and south of the cession made to the United States by South-Carolina: And also to receive any proposals for the relinquishment or cession of the whole or any part of the other territory claimed by the state of Georgia, and out of the ordinary jurisdiction thereof.

Lands aſcertained to be the property of the U. S. how to be diſpoſed of.

Sec. 2. *Be it further enacted,* That all the lands thus ascertained as the property of the United States shall be disposed of in such manner as shall be hereafter directed by law ; and the net proceeds thereof shall be applied to the sinking and discharging the public debt of the United States, in the same manner as the proceeds of the other public lands in the territory north-west of the river Ohio.

Sec. 3. *Be it further enacted,* That all that tract

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of country bounded on the west by the Mississippi; on the north by a line to be drawn due east from the mouth of the Yasous to the Chatahouchee river; on the east by the river Chatahouchie; and on the south by the thirty-first degree of north latitude, shall be, and hereby is constituted one district, to be called the Mississippi territory. And the President of the United States is hereby authorised to establish therein a government in all respects similar to that now exercised in the territory north-west of the river Ohio, excepting and excluding the last article of the ordinance made for the government thereof by the late Congress on the thirteenth day of July, one thousand seven hundred and eighty-seven, and by and with the advice and consent of the Senate, to appoint all the necessary officers therein, who shall respectively receive the same compensations for their services; to be paid in the same manner as by law established for similar officers in the territory north-west of the river Ohio; and the powers, duties and emoluments of a superintendant of Indian affairs for the southern department, shall be united with those of governor; *Provided always*, That if the President of the United States should find it most expedient to establish this government in the recess of Congress, he shall nevertheless have full power to appoint and commission all officers herein authorised; and their commissions shall continue in force until the end of the session of Congress next ensuing the establishment of the government.

Congreſs
may hereaf-
ter divide it
into two diſ-
tricts.

Sec. 4. *Be it further enacted*, That the territory hereby constituted one district for the purposes of government may at the discretion of Congress be hereafter divided into two districts, with separate territorial governments in each, similar to that established by this act.

Sec. 5. *Be it further enacted*, That the estab-

Saving of the right of Georgia and of individuals to the juriſdiction or ſoil thereof.

lishment of this government shall in no respect impair the right of the state of Georgia, or of any person or persons either to the jurisdiction or the soil of the said territory, but the rights and claims of the said state and all persons interested are hereby declared to be as firm and available, as if this act had never been made.

The people of this territory to be entitled to certain rights, &c.

Sec. 6. *And be it further enacted*, That from and after the establishment of the said government, the people of the aforesaid territory, shall be entitled to and enjoy all and singular the rights, privileges and advantages granted to the people of the territory of the United States, north-west of the river Ohio, in and by the aforesaid ordinance of the thirteenth day of July, in the year one thousand seven hundred and eighty-seven, in as full and ample a manner as the same are possessed and enjoyed by the people of the said last mentioned territory.

Penalty on the importation of ſlaves from foreign parts.

Sec. 7. *And be it further enacted*, That from and after the establishment of the aforesaid government, it shall not be lawful for any person or persons to import or bring into the said Mississippi territory, from any port or place within the limits of the United States, or to cause or procure to be so imported or brought, or knowingly to aid or assist in so importing or bringing any slave or slaves, and that every person so offending, and being thereof convicted before any court within the said territory having competent jurisdiction, shall forfeit and pay, for each and every slave so imported or brought, the sum of three hundred dollars; one moiety for the use of the United States, and the other moiety for the use of any person or persons who shall sue for the same; and that every slave, so imported or brought, shall thereupon become entitled to, and receive his or her freedom.

10,000 dolls. appropriated

Sec. 8. *And be it further enacted*, That the sum of ten thousand dollars be, and hereby is appropriated, for the purpose of enabling the President of the United States to carry into effect the provisions of this act; and that the said sum be paid out of any monies in the treasury not otherwise appropriated.

for carrying the act into effect,

JONATHAN DAYTON, *Speaker of the House of Representatives.*

TH: JEFFERSON, *Vice-President of the United States, and President of the Senate.*

APPROVED, *April* 7, 1798.

JOHN ADAMS, *President of the United States.*

AN ACT *supplemental to an act, entituled, "An act for an amicable Settlement of Limits with the State of Georgia; and authorizing the Establishment of a Government in the Mississippi territory."*

Sec. 1. *BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That so much of the ordinance of Congress of the thirteenth of July, one thousand seven hundred and eighty-seven, and of the act of Congress of the seventh of August, one thousand seven hundred and eighty-nine, providing for the government of the territory of the United States northwest of the river Ohio, as relates to the organization of a General Assembly therein, and prescribes the powers thereof, shall forthwith operate, and be in force in the Mississippi territory: *Provided*, That until the number of free male inhabitants of full age, in the said territory shall amount to five thousand, there shall not be returned to the General Assembly more than nine representatives.

Organization of a general aſſembly in the Miſſiſſippi territory.

Sec. 2. *And be it further enacted*, That until the number of free male inhabitants of full age in the Mississippi territory shall amount to five thousand, the county of Adams shall be entitled to choose four representatives to the General Assembly, the county of Pickering four, and the Tensaw and Tombigbee settlements, one.

Sec. 3. *And be it further enacted*, That the first election, for representatives to the General Assembly, shall be on the fourth Monday in July next, and that all subsequent elections shall be regulated by the legislature.

Sec. 4. *And be it further enacted*, That it shall be the duty of the Governor of the Mississippi territory, to cause the said election to be holden on the day aforesaid, at the most convenient place in the counties and settlements aforesaid, and to nominate a proper officer or officers to preside at and conduct the same, and to return to him the names of the persons who may have been duly elected.

Sec. 5. *And be it further enacted*, That the representatives shall be convened by the Governor at the town of Natchez, on the fourth Monday in September next.

Sec. 6. *And be it further enacted*, That so soon as the number of free male inhabitants of full age shall amount to, or exceed five thousand, the number of representatives to the General Assembly shall be determined, and the apportionment made in the way prescribed in the ordinance.

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Saving of the right of Georgia and of all perſons.

Sec. 7. *And be it further enacted*, That nothing in this act shall in any respect impair the right of the state of Georgia to the jurisdiction, or of the said state, or of any person or persons to the soil of the said territory, but the rights and claims of the said state, and all persons interested, are hereby declared to be as firm and available as if this act had never been made.

Sec. 8. *And be it further enacted*, That the

General Assembly shall meet at least once in every year, and such meeting shall be on the first Monday of December, unless they shall by law appoint a different day: *Provided*, That the governor shall have power on extraordinary occasions to convene the General Assembly.

Time of meeting of the general aſſembly.

Sec. 9. *And be it further enacted*; That neither House during the Session of the General Assembly shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

Adjournment thereof.

Sec. 10. *And be it further enacted*, That it shall be lawful for the commissioners appointed, or who may hereafter be appointed on the part of the United States, in pursuance of the act, intituled, "An act for an amicable settlement of limits with the state of Georgia; and authorizing the establishment of a government in the Mississippi territory," or any two of them, finally to settle by compromise with the Commissioners, which have been or may be appointed by the state of Georgia, any claims mentioned in said act, and to receive in behalf of the United States a cession of any lands therein mentioned, or of the jurisdiction thereof, on such terms as to them shall appear reasonable: And also, that the said Commissioners on the part of the United States, or any two of them, be authorized to enquire into the claims which are or shall be made by settlers or any other persons whatsoever, to any part of the aforesaid lands, and to receive from such settlers and claimants any propositions of compromise which may be made by them, and lay a full statement of the claims and the propositions which may be made to them by the settlers or claimants to any part of the said lands, together with their opinion thereon, before Congress, for their decision thereon, as soon as may be: *Provided*, That the settlement shall be made and com-

The commiſſioners of the U. S. may finally ſettle with Georgia by compromiſe.

They may enquire into the claims of individuals.

Proviſoes.

pleted before the fourth day of March, one thousand eight hundred and three: *And provided also*, That the said Commissioners shall not contract for the payment of any money from the Treasury of the United States to the state of Georgia, other than the proceeds of the same lands.

THEODORE SEDGWICK,
Speaker of the House of Representatives.
TH: JEFFERSON,
Vice-President of the United States,
and President of the Senate.

APPROVED—May 10th, A. D. 1800.
JOHN ADAMS,
President of the United States.

ARTICLES
OF
AGREEMENT AND CESSION

Entered into on the 14th day of April, one thousand eight hundred and two, between the Commissioners appointed on the part of the United States, by virtue of an act entitled, "An act for an amicable Settlement of Limits with the State of Georgia, and authorising the establishment of a Government in the Mississippi Territory," and of the act supplemental to the last mentioned act, on one part; and the Commissioners appointed on the part of the State of Georgia, by virtue of an act entitled, "An act to carry the twenty-third section of the first article of the constitution into effect," and of the act to amend the last mentioned act, on the other part.

ARTICLE I.

THE state of Georgia cedes to the United States all the right, title and claim which the said state has to the jurisdiction and soil of the lands situated within the boundaries of the United States south of the state of Tennessee, and west of a line beginning on the western bank of the Chatahochie river, where the same crossed the boundary line between the United States and Spain, running thence up the said river Chatahochie, and along the western bank thereof, next above the place where a certain creek or river called 'Uche,' (being the first considerable stream on the western side, above the Cussetas and Coweta towns) empties into the said Chatahochie river; thence in a direct line to Nickajack, on the Tennessee river; then crossing the said last mentioned river, and thence running up the said Tennessee river, and along the western bank thereof, to the southern boundary line of the state of Tennessee; upon the following express conditions, and subject thereto, that is to say:

1st. That out of the first nett proceeds of the sale of the lands thus ceded, which nett proceeds shall be estimated by deducting from the gross amount of sales the expences incurred in surveying, and incident to the sale, the United States shall pay out of their treasury one million two hundred and fifty thousand dollars to the state of Georgia, as a consideration for the expences incurred by the said state in relation to the said territory; and that for the better securing as prompt a payment of the said sum as is practicable, a land office for the disposition of the vacant lands thus ceded, to which the Indian title has been, or may hereafter be extinguished, shall be opened within a twelve month after the assent of the state of Georgia to this agreement, as hereafter stated, shall have been declared.

2d. That all persons who, on the twenty-seventh day of October, one thousand seven hundred and ninety-five, were actual settlers within the territory thus ceded, shall be confirmed in all the grants legally and fully executed prior to that day, by the former British government of West Florida or by the government of Spain, and in the claims which may be derived from any actual survey or settlement made under the act of the state of Georgia, entitled "An act for laying out a district of land situate on the river Mississippi, and within the bounds of this state, into a county to be called Bourbon," passed the seventh day of February, one thousand seven hundred and eighty-five.

3d. That all lands ceded by this agreement to the United States; shall, after satisfying the abovementioned payment of one million two hundred and fifty-thousand dollars to the state of Georgia, and the grants recognized by the preceding condition be considered as a common fund for the use and benefit of the United States, Georgia included, and shall be faithfully disposed of for that purpose, and for no other use or purpose whatever; provided however, that the United States, for the period and until the end of one year after the assent of Georgia to the boundary establishment by this agreement shall have been declared, may in such manner as not to interfere with the abovementioned payment to the state of Georgia, nor with the grants herein before recognized, dispose of or appropriate

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The clauſe of the Bourbon act, alluded to above, is in the following words:

"*And whereas*, it will not be proper at preſent to open a land-office, for the purpoſe of granting out the lands in the ſaid county, *But nevertheleſs it is hereby enacted and declared*, That whenever that meaſure ſhall be determined upon by this or a future legiſlature, there ſhall be a right of preference, agreeable to the laws ot this State, reſerved to any, all, and every honeſt and friendly poſſeſſor and poſſeſſors of the ſaid lands, who ſhall be citizens of either of the United States, or the ſubjects of any power that was friendly to the United States during the war: *Provided* ſuch perſons do actually live on and cultivate the ſaid lands, or a part thereof, and ſhall apply and preſent themſelves on equal terms with other petitioners."

a portion of the said lands, not exceeding five millions of acres or of any part thereof, for the purpose of satisfying, quieting, or compensating for any claims other than those herein before recognized, which may be made to the said lands, or to any part thereof. It being fully understood, that if an act of Congress making such disposition or appropriation shall not be passed into a law within the abovementioned period of one year, the United States shall not be at liberty thereafter, to cede any part of the said lands on account of claims which may be laid on the same, other than those recognized by the preceding condition, nor to compensate for the same; and in case of any such cession or compensation, the present cession of Georgia to the right of soil over the lands thus ceded or compensated for, shall be considered as null and void, and the lands thus ceded or compensated for, shall revert to the state of Georgia.

4th. That the United States shall, at their own expence, extinguish for the use of Georgia, as early as the same can be peaceably obtained on reasonable terms, the Indian title to the country of Talassee, to the lands left out by the line drawn with the Creeks in the year one thousand seven hundred and ninety-eight, which had been previously granted by the state of Georgia, both which tracts had formerly been yielded by the Indians; and to the lands within the forks of Oconee and Oakmulgee rivers; for which several objects, the United States have directed that a treaty should be immediately held with the Creeks; and that the United States shall, in the same manner, also extinguish the Indian title to all the other lands within the state of Georgia.

5th. That the territory thus ceded, shall form a state and be admitted as such into the Union, as soon as it shall contain sixty thousand free inhabitants, or at an earlier period if Congress shall think it expedient, on the same conditions and restrictions, with the same privileges, and in the same manner as is provided in the ordinance of Congress of the thirteenth day of July, one thousand seven hundred and eighty-seven, for the government of the western territory of the United States; which ordinance shall, in all its parts, extend to the territory contained in the present act of cession, that article only excepted which forbids slavery.

ARTICLE II.

The United States accept the cession above mentioned, and on the conditions therein expressed; and they cede to the State of Georgia, whatever claim, right or title they may have to the jurisdiction or soil of any lands lying within the United States, and out of the proper boundaries of any other state, and situated south of the southern boundaries of the states of Tennessee, North-Carolina and South Carolina, and east of the boundary line herein above described, as the eastern boundary of the territory ceded by Georgia to the United States.

ARTICLE III.

The present act of cession or agreement shall be in force as soon as the legislature of Georgia shall have given its assent to the boundaries of this cession; provided that the said assent shall be given within six months after the date of these presents, and provided that Congress shall not, during the same period of six months, repeal so much of any former law as authorises this agreement, and renders it binding and conclusive on the United States: But if either the assent of Georgia shall not be thus given, or if the law of the United States shall be thus repealed within the said period of six months, then, and in either case these presents shall become null and void.

In faith whereof the respective Commissioners have signed these presents, and affixed their seals. Done at the City of Washington, in the District of Columbia, this 24th day of April, 1802.

Commiſſioners on the part of the United States.
JAMES MADISON, *(Seal.)*
ALBERT GALLATIN, *(Seal.)*
LEVI LINCOLN, *(Seal.)*

Commiſſioners on the part of the State of Georgia.
JAMES JACKSON, *(Seal.)*
ABRM. BALDWIN, *(Seal.)*
JOHN MILLEDGE, *(Seal.)*

Witnesses.
J. FRANKLIN, *Senator of the U. States for N. Carolina.*
SAMUEL A. OTIS, *Secretary of the Senate of the U. States.*
JOHN BECKLEY, *Clerk of the House of Representatives of the United States.*

AN ORDINANCE

FOR THE

GOVERNMENT OF THE TERRITORY

OF THE

UNITED STATES *North-west of the River Ohio.*

BE it ordained by the United States in Congress assembled, That the said territory, for the purposes of temporary government, be one district; subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

Be it ordained by the authority aforesaid, That the estates both of resident and non-resident proprietors in the said territory dying intestate, shall descend to, and be distributed among their children, and the descendants of a deceased child in equal parts; the descendants of a deceased child or grand-child, to take the share of their deceased parent in equal parts among them: And where there shall be no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate, shall have in equal parts among them their deceased parents share; and there shall in no case be a distinction between kindred of the whole and half blood; saving in all cases to the widow of the intestate, her third part of the real estate for life, and one third part of the personal estate; and this law relative to descents and dower, shall remain in full force until altered by the legislature of the district. And until the governor and judges shall adopt laws as hereinafter mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her, in whom the estate may be (being of full age) and attested by three witnesses; and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed, and delivered by the person being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts, and registers shall be appointed for that purpose; and personal property may be transferred by delivery; saving, however to the French and Canadian inhabitants, and other settlers, of the Kaskaskies, Saint Vincent's, and the neighbouring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance of property.

Be it ordained by the authority aforesaid, That there shall be appointed from time to time, by Congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress: he shall reside in the district, and have a free-hold estate therein, in one thousand acres of land, while in the exercise of his office.

There shall be appointed from time to time by Congress a secretary, whose commission shall continue in force for four years; unless sooner revoked; he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office; it shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department; and transmit authentic copies of such acts and proceedings, every six months to the secretary of Congress: There shall also be appointed a court to consist of three judges, any two of whom to form a court, who shall have a common law jurisdiction, and reside in the district, and have each therein a freehold estate in five hundred acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behaviour.*

The governor and judges, or a majority of them, shall adopt and publish in the district, such laws of the original states, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to Congress from time to time; which laws shall be in force in the district until the organization of the general assembly therein, unless disapproved of by Congress: but afterwards the legislature shall have authority to alter them as they shall think fit.

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* By an act paſſed May the 8th, 1792, it is provided that, "the official duties of the Secretary of the ſaid territory, ſhall be under the controul of ſuch laws as may be in force in the ſame, and that any one of the ſupreme or ſuperior judges of the ſaid territory, in the abſence of the other judges, ſhall be and are hereby authoriſed to hold a court."

The governor for the time being, shall be commander in chief of the militia, appoint and commission all officers in the same, below the rank of general officers; all general officers shall be appointed and commissioned by Congress.

Previous to the organization of the general assembly, the governor shall appoint such magistrates and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order in the same; After the general assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers not herein otherwise directed, shall, during the continuance of this temporary government, be appointed by the governor.

For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof, and he shall proceed from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into counties and townships, subject however, to such alterations as may thereafter be made by the legislature.

So soon as there shall be five thousand free male inhabitants, of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representa tives from their counties or townships, to represent them in the general assembly; provided that for every five hundred free male inhabitants, there shall be one representative, and so on progressively with the number of free male inhabitants shall the right of representation increase, until the number of representatives shall amount to twenty-five; after which the number and proportion of representatives shall be regulated by the legislature: Provided that no person be eligible or qualified to act as a representative, unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years; and in either case, shall likewise hold in his own right, in fee simple, two hundred acres of land within the same: Provided also, that a freehold in fifty acres of land in the district, having been a citizen of one of the states, and being resident in the district, or the like freehold, and two years residence in the district shall be necessary to qualify a man as an elector of a representative.

The representatives thus elected, shall serve for the term of two years; and in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township, for which he was a member, to elect another in his stead, to serve for the residue of the term.

The general assembly, or legislature, shall consist of the governor, legislative council, and a house of representatives. The legislative council shall consist of five members, to continue in office five years, unless sooner removed by Congress: any three of whom to be a quorum: And the members of the council shall be nominated and appointed in the following manner, to wit: As soon as representatives shall be elected, the governor shall appoint a time and place for them to meet together, and; when met, they shall nominate ten persons, residents in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress; five of whom Congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall happen in the council by death or removal from office, the house of representatives shall nominate two persons, qualified as aforesaid for each vacancy, and return their names to Congress; one of whom, Congress shall appoint and commission for the residue of the term. And every five years, four months at least before the expiration of the time of service of the members of council, the said house shall nominate ten persons qualified as aforesaid, and return their names to Congress; five of whom Congress shall appoint and commission to serve as members of the council five years, unless sooner removed. And the governor, legislative council, and house of representatives, shall have authority to make laws, in all cases, for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills having passed by a majority in the house, and by a majority in the council, shall be referred to the governor for his assent; but no bill or legislative act whatever, shall be of any force without his assent. The governor shall have power to convene, prorogue and dissolve the general assembly, when in his opinion it shall be expedient.

The governor, judges, legislative council, secretary and such other officers as Congress shall appoint in the district, shall take an oath or affirmation of fidelity, and of office; the governor before the president of Congress, and all other officers before the governor. As soon as a legislature shall be formed in the district, the council and house assembled, in one room, shall have authority, by joint ballot, to elect a delegate to Congress, who shall have a seat in Congress, with a right of debating, but not of voting during this temporary government.

And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions and governments, which forever hereafter shall be formed in the said territory: to provide also for the establishment of states, and permanent government therein, and for their admission to a share in the federal councils, on an equal footing with the original states, at as early periods, as may be consistent with the general interest;

It is hereby ordained and declared, by the authority aforesaid, That the following articles shall be considered as articles of compact between the original states, and the people and states in the said territory, and forever remain unalterable, unless by common consent, to wit:

ARTICLE I.

No person demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship or religious sentiments, in the said territory.

ARTICLE II.

The inhabitants of the said territory, shall always be entitled to the benefits of the writ of habeas corpus, and of the trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law. All persons shall be bailable, unless for capital offences, where the proof shall be evident, or the presumption great. All fines shall be moderate; and no cruel or unusual punishments shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers, or the law of the land; and should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made, or have force in the said territory, that shall in any manner whatever interfere with, or affect private contracts or engagements, bona fide, and without fraud previously formed.

ARTICLE III.

Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools, and the means of education, shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights and liberty, they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity, shall from time to time be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

ARTICLE IV.

The said territory, and the states which may be formed therein, shall forever remain a part of this confederacy of the United States of America, subject to the articles of confederation, and to such alterations therein, as shall be constitutionally made; and to all the acts and ordinances of the United States in Congress assembled, conformable thereto.

The inhabitants and settlers, in the said territory, shall be subject to pay a part of the federal debts, contracted or to be contracted, and a proportional part of the expenses of government, to be apportioned on them by Congress, according to the same common rule and measure, by which apportionments thereof shall be made on the other states; and the taxes for paying their proportion, shall be laid and levied by the authority and direction of the legislatures of the district or districts or new states, as in the original states, within the time agreed upon by the United States in Congress assembled. The legislatures of those districts or new states, shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the bona fide purchasers. No tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the said territory, as to the citizens of the United States, and those of any other states that may be admitted into the confederacy, without any tax, impost, or duty therefor.

ARTICLE V.

There shall be formed in the said territory, not less than three, nor more than five states; and the boundaries of the states, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established as follows, to wit: The western state in the said territory, shall be bounded by the Mississippi, the Ohio and Wabash rivers; a direct line drawn from the Wabash and Post Vincents due north to the territorial line between the United States and Canada; and by the said territorial line to the lake of the Woods and Mississippi. The middle state shall be bounded by the said direct line, the Wabash from Post Vincents to the Ohio; by the Ohio, by a direct line drawn due north from the mouth of the Great Miami, to the said territorial line, and by the said territorial line. The eastern state shall be bounded by the last mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: Provided however, and it is further understood and declared, that the boundaries of these three states, shall be subject so far to be altered, that if Congress shall hereafter find it expedient, they shall have authority to form one or two states in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of lake Michigan. And whenever any of the said states, shall have sixty thousand free inhabitants therein, such state shall be admitted, by its delegates, into the Congress of the United States, on an equal footing with the original states, in all respects whatever; and shall be at liberty to form a permanent constitution and state government: Provided the constitution and government so to be formed, shall be republican, and in conformity to the principles contained in these articles; and so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the state than sixty thousand.

ARTICLE VI.

There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in punishment of crimes, whereof the party shall have been duly convicted: Provided always, that any person escaping into the same, from whom labour or service is lawfully claimed in any one of the original states, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labour or service as aforesaid.

DONE *by the United States, in Congress assembled, the thirteenth day of July, in the year of our Lord one thousand seven hundred and eighty-seven, and of their sovereignty and independence the twelfth.*

WILLM. GRAYSON, *Chairman.*

CHARLES THOMPSON, *Secretary.*

AN ACT *to provide for the Government of the Territory North-West of the River Ohio.*

Recital.

WHEREAS in order that the ordinance of the United States in Congress assembled, for the government of the territory north-west of the river Ohio may continue to have full effect, it is requisite that certain provisions should be made, so as to adapt the same to the present constitution of the United States:

Governor to make communication to the President of the U. States.

Sec. 1. *BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That in all cases in which by the said ordinance, any information is to be given, or communication made by the governor of the said territory to the United States in Congress assembled, or to any of their officers, it shall be the duty of the governor to give such information and to make such communication to the President of the United States; and the President shall nominate, and by and with the advice and consent of the Senate, shall appoint all officers which by the said ordinance

Officers, how to be appointed,

Commiſſioned and removed.

were to have been appointed by the United States in Congress assembled, and all officers so appointed, shall be commissioned by him; and in all cases where the United States in Congress assembled, might, by the said ordinance, revoke any commission or remove from any office, the President is hereby declared to have the same powers of revocation and removal.

In caſe of death, removal, &c. ſecretary to execute the power of governor during ſuch vacancy.

Sec. 2. *And be it further enacted,* That in case of the death, removal, resignation, or necessary absence of the governor of said territory, the secretary thereof shall be, and he is hereby authorised and required to execute all the powers, and perform all the duties of the governor, during the vacancy occasioned by the removal, resignation or necessary absence of the said governor.

FREDERICK A. MUHLENBERG,
Speaker of the House of Representatives.
JOHN ADAMS, *Vice-President of the United States, and President of the Senate.*

Approved, August the 7th, 1789.
GEORGE WASHINGTON,
President of the United States.

An Act *to extend Jurisdiction in certain cases, to the Territorial Courts.*

Superior courts of the ſeveral territories of the United States inveſted with the juriſdiction of the diſ-

BE *it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the superior courts of the several territories of the United States, in which a district court has not been established by law, shall in all cases in which the United States are concerned, have and exercise, within their respective territories, the same jurisdiction and powers which are by law given to, or may be exercised by the district court of Kentucky district; and writs of error and appeals shall lie, from decisions thereon, to the supreme court, for the same causes, and under the same regulations, as from the said district court of Kentucky district.

trict court of Kentucky, in caſes in which the U. S. are concerned.

NATHL. MACON,
Speaker of the House of Representatives.
JOS. ANDERSON,
President of the Senate, pro tempore.

March 3, 1805.
APPROVED,
TH: JEFFERSON.

AN ACT *supplementary to the act, entitled "An act to extend Jurisdiction in certain cases to the Territorial Courts."*

BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the provisions of the act, intituled "An act for providing compenstation for the marshals, clerks, attornies, jurors and witnesses, in the courts of the United States, and to repeal certain parts of the acts therein mentioned, and for other purposes," passed February the twenty-eighth, one thousand seven hundred and ninety nine, be, and the same hereby are extended to the territories of the United States, so far as the said act may relate to the provisions of the act, intituled "An act to extend jurisdiction in certain cases to the territorial courts," passed March the third, one thousand eight hundred and five, excepting that the clerks of the said territorial courts shall not receive the additional five dollars per day, allowed to the clerks of the circuit and district courts by

Proviſions of a former act extended to the territories of the United States.

the third section of the act first above mentioned.

NATHL. MACON,
Speaker of the House of Representatives.
S. SMITH,
President of the Senate, pro tempore.
April 18, 1806.
Approved,
TH: JEFFERSON.

An Act *for the appointment of an additional Judge for the Mississippi Territory, and for other purposes.*

An additional judge to be appointed for the Miſſiſſippi territory. His place of reſidence. His duties and authorities.

BE *it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That there shall be appointed an additional judge for the Mississippi territory, who shall reside at or near the Tombigbee settlement, and who shall possess and exercise, within the district of Washington, as fixed and ascertained by an act of the general assembly of the Mississippi territory, intituled, "An act for the more convenient organization of the courts of the said territory," the jurisdiction heretofore possessed and exercised by the superior court of the said territory within the said district of Washington, and to the exclusion of the original jurisdiction of the said superior court within the same: *Provided always,* That the said superior court shall have full power and authority to issue writs of error to the court established by this act and to hear and determine the same, when sitting, for the district of Adams, as fixed and ascertained by the act of the general assembly of the Mississippi territory herein before mentioned.

Proviſo.

Sec. 2. *Be it further enacted,* That the said superior court are hereby authorised, upon the reversal of a judgment of the court established by this act, to render such judgment as the said court ought to have rendered or passed, except where the reversal is in favor of the plaintiff in the original suit, and the debt or damages to be assessed are uncertain, in which case the cause shall be remanded in order to a final determination.

Upon the reverſal of a judgment of the court eſtabliſhed by this act, the judgment of the ſuperior court to be final; but in certain caſes, when the cauſe ſhall be remanded to the court below.

Sec. 3. *Be it further enacted*, That when any person, not being an executor or administrator, applies for a writ of error, such writ of error shall be no stay of proceedings in the court to which it issues, unless the plaintiff in error shall give security to be approved of by a judge of the said superior court, that the plaintiff in error shall prosecute his writ to effect, and pay the condemnation money and all costs, or otherwise abide the judgment in error, if he fail to make his plea good.

Plaintiffs in error, other than executors or adminiſtrators, to give ſecurity, &c. &c.

Sec. 4. *Be it further enacted*, That all pleas, process and proceedings whatever, which may have been commenced in the said superior court within the aforesaid district of Washington, shall be, and the same are hereby transferred to the court established by this act, and the officers appointed to issue or execute the process of the said superior court within the district of Washington, and to record the proceedings of the same, are hereby authorised and required to issue and execute the process of the court established by this act, and to record the proceedings thereof.

Proceedings commenced in the ſuperior court of Waſhington diſtrict transferred to that eſtabliſhed by this act.

Officers to iſſue and execute proceſs and to record proceedings authoriſed to act for both courts.

Sec. 5. *Be it further enacted*, That the court established by this act, shall hold two terms in each and every year, at the place where the courts for Washington county, within the said territory, shall be held, to commence on the days following, to wit: on the first Monday in May and September annually; and shall then and there proceed to hear and determine the pleas, process and proceedings depending before them, in the same manner as

Seſſions of the court.

Places and times of holding them.

the said superior court within the district of Washington aforesaid, might or could have done, in case this act had not been passed.

Salary, &c. of the Judge.

Sec. 6. *And be it further enacted*, That the judge to be appointed by virtue of this act, shall receive the same salary, and payable in the same manner, which is established by law for judges of the said superior court of the Mississippi territory.

NATHL. MACON,
Speaker of the House of Representatives.
JESSE FRANKLIN,
President of the Senate, pro tempore.
March 27, 1804.
APPROVED,
TH: JEFFERSON.

The 4th, 5th, 6th, 7th, & 11th Sections of

AN ACT *for laying and collecting duties on imports and tonnage within the territories ceded to the United States, by the treaty of the thirtieth of April, one thousand eight hundred and three, between the United States and the French Republic; and for other purposes.*

Sec. 4. *And be it further enacted*, That to the end that the laws providing for the collection of the duties imposed by law, on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships and vessels, and the laws respecting the revenue and navigation of the United States may be carried into effect, within the said territories, the territories ceded to the United States by the treaty above mentioned, and also all the navigable waters, rivers, creeks, bays, and inlets, lying within the United States, which empty into the Gulf of Mexico, east of the river Mississippi, shall be annexed to the Mississippi district, and shall together with the same, constitute one district, to be called the "District of Mississippi." The city of New-Orleans shall be the sole port of entry in the said district, and the town of Bayou St. John shall be a port of delivery, a collector, naval officer, and surveyor shall be appointed to reside at New-Orleans, and a surveyor shall be appointed to reside at the port of Bayou St. John; and the President of the United States is hereby authorised to appoint, not exceeding three surveyors, to reside at such other places, within the said district, as he shall deem expedient, and to constitute each, or either of such places ports of delivery only. And so much of any law or laws, as establishes a district on the river Mississippi, south of the river Tennessee, is hereby repealed, except as to the recovery and receipt of such duties on goods, wares and merchandise, and on the tonnage of ships or vessels, as shall have accrued, and as to the recovery and distribution of fines, penalties and forfeitures, which shall have been incurred before the commencement of the operation of this act.

Diſtrict of Miſſiſſippi.

Officers to be appointed by the Preſident of the U. S.

Sec. 5. *And be it further enacted*, That the shores and waters of the town of Natchez, shall be one district to be called the district of Natchez, and a collector shall be appointed who shall reside at Natchez, which shall be the only port of entry or delivery within the said district, of any goods, wares, and merchandise, not the growth or manufacture of the United States: *Provided nevertheless*, That it shall be the duty of every master or commander of any ship or vessel destined for the said port of Natchez, to stop at New-Orleans, and there deliver to the collector of said port a manifest of the cargo on board such ship or vessel agreeably to law, on penalty of five thousand dollars. And it shall be the duty of said collector to transmit a cer-

Diſtrict of Natchez—

Officer there.

Ships to ſtop at New-Orleans.

tified copy of such manifest to the collector of the said port of Natchez, and to direct an inspector to go on board such ship or vessel, and proceed therewith to the port of Natchez, and there report such ship or vessel to the collector of said port of Natchez, immediately after his arrival, when the duty of said inspector shall cease.

Foreign veſſels to unlade only at New-Orleans.

Sec. 6. *And be it further enacted*, That foreign ships or vessels shall be admitted to unlade at the port of New-Orleans and at no other port within the district of Mississippi; and ships or vessels belonging to citizens of the United States coming directly from France or Spain or any of their colonies, shall not be admitted to unlade at any port within the district of Mississippi other than New Orleans: and ships or vessels arriving from the Cape of Good Hope, or from any place beyond the same shall be admitted to make entry at the port of New Orleans and at no other port within the district of Mississippi: *Provided however*, That nothing in this act contained, shall authorise the allowing of drawbacks on the exportation of any goods, wares and merchandize from the said port of New Orleans, other than on those which shall have been imported directly into the same, from a foreign port or place.

Drawbacks at New-Orleans, how regulated.

Ships bound for other ports, muſt ſtop at New-Orleans, and make entry.

Sec. 7. *And be it further enacted*, That the master or commander of every ship or vessel, bound to a port of delivery only, other than the port of Bayou St. John, in the district of Mississippi, shall first come to at the port of New Orleans with his ship or vessel, and there make report and entry, in writing, and pay, or secure to be paid, all legal duties, port fees, and charges, in manner provided by law, before such ship or vessel shall proceed to her port of delivery; and any ship or vessel, bound to the port of Bayou St. John, may first proceed to the said port, and afterwards make report and entry at the port of New Orleans, within the time by law limited: and the master of every ship or vessel, arriving from a foreign port or place, or having goods on board of which the duties have not been paid or secured, and bound to any port within the district of Mississippi, (other than New Orleans, or Bayou St. John) shall take an inspector on board, at New Orleans, before proceeding to such port; and if any master of a ship or vessel, shall proceed to such port of delivery, contrary to the directions aforesaid, he shall forfeit and pay five hundred dollars, to be recovered in any court of competent jurisdiction, with the costs of suit.

Under a penalty of 500 dollars.

Sec. 11. *And be it further enacted*, That the President of the United States be, and he hereby is, authorised, whenever he shall deem it expedient, to erect the shores, waters and inlets of the bay and river Mobille, and of the other rivers, creeks, inlets, and bays emptying into the gulf of Mexico, east of the said river Mobille, and west thereof to the Pascaguola inclusive, into a separate district, and to establish such place within the same, as he shall deem expedient, to be the port of entry and delivery for such district; and to designate such other places, within the same district, not exceeding two, to be ports of delivery only. Whenever such separate district shall be erected, a collector shall be appointed, to reside at the port of entry; and a surveyor shall likewise be appointed, to reside at each of the ports of delivery which may be established. And such collector and surveyor shall be entitled to receive, in addition to their other fees and emoluments, an annual salary of two hundred and fifty dollars. And the said collector shall give bond for the faithful discharge of the duties of his office in the sum of five thousand dollars.

Mobille made a ſeparate diſtrict.

Two ports of delivery in Mobille.

Officers may be appointed.

(*Approved February* 24, 1804.)

PART III.

LAWS RELATING TO LAND TITLES.

AN ACT *providing for the Sale of the Lands of the United States, in the Territory north-west of the River Ohio, and above the mouth of Kentucky River.*

A ſurveyor general to be appointed: his power & duties.

Sec. 1. *BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That a Surveyor-General shall be appointed, whose duty it shall be to engage a sufficient number of skilful surveyors, as his deputies; whom he shall cause without delay, to survey and mark the unascertained outlines of the lands lying north-west of the river Ohio, and above the mouth of the river Kentucky, in which the titles of the Indian tribes have been extinguished, and to divide the same in the manner herein-after directed; he shall have authority to frame regulations and instructions for the government of his deputies; to administer the necessary oaths, upon their appointments; and to remove them for negligence or misconduct in office.

The lands, how to be ſurveyed, laid out, &c.

Sec. 2. *Be it further enacted,* That the part of the said lands, which has not been already conveyed by letters patent, or divided in pursuance of an ordinance in Congress, passed on the twentieth of May, one thousand seven hundred and eighty-five, or which has not been heretofore, and, during the present session of Congress, may not be appropriated for satisfying military land-bounties, and for other purposes, shall be divided by north and south lines run according to the true meridian, and by others crossing them at right angles, so as to form townships of six miles square, unless where the line of the late Indian purchase, or of land heretofore surveyed or patented, or the course of navigable rivers may render it impracticable; and then this rule shall be departed from, no further than such particular circumstances may require. The corners of the townships shall be marked with progressive numbers from the beginning; each distance of a mile between the said corners shall be also distinctly marked with marks different from those of the corners. One half of the said townships, taking them alternately, shall be subdivided into sections, containing, as nearly as may be, six hundred and forty acres each, by running through the same, each way, parrallel lines, at the end of every two miles; and by marking a corner, on each of the said lines, at the end of every mile; the sections shall be numbered respectively, beginning with the number one, in the north-east section, and proceeding west and east alternately, through the township with progressive numbers, till the thirty-sixth be completed. And it shall be the duty of the deputy-surveyors, respectively, to cause to be marked, on a tree near each corner made, as aforesaid and within the section, the number of such section, and over it, the number of the township, within which such section may be; and the said deputies shall carefully note, in their respective field-books, the names of the corner trees marked, and the numbers so made: The fractional parts of townships shall be divided into sections, in manner aforesaid, and the fractions of sections shall be annexed to, and sold with, the adjacent entire sections. All lines shall be plainly marked upon trees, and measured with chains, containing two perches of sixteen feet and one half each, subdivided into twenty-five equal links, and the chain shall be adjusted to a standard to be kept for that purpose. Every surveyor shall note in his field-book, the true situations of all mines, salt licks, salt springs and mill-seats which shall come to his knowledge; all water-courses, over which, the line he runs shall pass; and also the quality of the lands: These field-books shall be returned to the Surveyor-General, who shall therefrom cause a description of the whole lands surveyed, to be made out and transmitted to the officers who may superintend the sales: He shall also cause a fair plat to be made of the townships, and fractional parts of townships, contained in the said lands, describing the subdivisons thereof, and the marks of the corners. This plat shall be recorded in books to be kept for that purpose; a copy thereof shall be kept open at the Surveyor-General's office, for public information; and other copies sent to the places of the sale, and to the Secretary of the Treasury.

Plat of townſhips and fractional parts to be made.

Reſervations for the future diſpoſal of the U. States.

Sec. 3. *Be it further enacted*, That a salt-spring lying upon a creek which empties into the Sciota river, on the east side, together with as many contiguous sections as shall be equal to one township; and every other salt-spring, which may be discovered, together with a section of one mile square which includes it, and also four sections at the center of every township, containing each one mile shall be reserved, for the future disposal of the United States: But there shall be no reservations, except for salt-springs, in fractional townships, where the fraction is less than three-fourths of a township.

Sections of 640 acres (except reſervations) to be ſold at vendue, by the Governor or Secretary of

Sec. 4. *Be it further enacted*, That whenever seven ranges of townships shall have been surveyed below the Great Miami, or between the Scioti river and the Ohio company's purchase, or between the southern boundary of the Connecticut claims and the ranges already laid off, beginning upon the Ohio river and extending westwardly, and the plats thereof made and transmitted, in conformity to the provisions made by this act, the said sections of six hundred and forty acres (excluding those hereby reserved) shall be offered for sale at public vendue, under the direction of the Governor, or Secretary of the western territory, and the Surveyor-General; such of them as lie below the Great Miami, shall be sold at Cincinnati; Those of them which lie between the Sciota and the Ohio company's purchase, at Pittsburgh; and those between the Connecticut claim and the seven ranges, at Pittsburgh. And the townships remaining undivided shall be offered for sale in the same manner, at the seat of government of the United States, under the direction of the Secretary of the Treasury, in tracts of one quarter of a township lying at the corners thereof, excluding the four central sections, and the other reservations before mentioned: *Provided always*, That no part of the lands directed by this act to be offered for sale, shall be sold for less than two dollars per-acre.

the weſtern territory, and the Surveyor-General.

Undivided townſhips to be ſold in like manner by the Secretary of the Treaſury

No part of the lands to be ſold for leſs than 2 dollars.

Sec. 5. *Be it further enacted*, That the Secretary of the Treasury, after receiving the aforesaid plats, shall forthwith give notice, in one newspaper in each of the United States, and of the territories north-west and south of the river Ohio, of the times of sale; which shall, in no case, be less than two months from the date of the notice; and the sales at the different places shall not commence, within less than one month of each other: And when the Governor of the western territory, or Secretary of the Treasury, shall find it necessary to adjourn, or suspend the sales under their direction, respectively, for more than three days, at any one time, notice shall be given in the public newspapers, of such suspension, and at what time the sales will re-commence.

Secretary of Treaſury to give notice of the times of ſale, &c.

Sec. 6. *Be it further enacted*, That immediately after the passing of this act, the Secretary of the Treasury shall, in the manner herein before directed, advertise for sale, the lands remaining unsold in the seven ranges of townships, which were surveyed, in pursuance of an ordinance of Congress, passed the twentieth of May, one thousand seven hundred and eighty-five, including the lands drawn for the army, by the late Secretary of War, and also those heretofore sold, but not paid for; the townships which by the said ordinance, are directed to be sold entire, shall be offered for sale, at public vendue in Philadelphia, under the direction of the Secretary of the Treasury, in quarter townships, reserving the four center sections, according to the directions of this act. The townships, which, by the said ordinance, are directed to be sold in sections, shall be offered for sale at public vendue, in Pittsburgh, under the direction of the Governor or Secretary of the western territory, and such person, as the President may specially appoint for that purpose by sections of one mile square each, reserving the four center sections, as aforesaid; and all fractional townships shall also be sold in sections, at Pittsburgh, in the manner, and under the regulations provided by this act, for the sale of fractional townships: *Provided always*, That nothing in this act shall authorize the sale of those lots, which have been heretofore reserved in the townships already sold.

Certain other lands to be ſold.

Sec. 7. *Be it further enacted*, That the highest bidder for any tract of land, sold by virtue of this act, shall deposit, at the time of sale, one-twentieth part of the amount of the purchase-money; to be forfeited, if a moiety of the sum bid, including the said twentieth part, is not paid within thirty days, to the Treasurer of the United States, or to such person as shall be appointed by the President of the United States, to attend the places of sale for that purpose; and upon payment of a moiety of

Mode of payment, and of obtaining a patent, &c.

the purchase-money, within thirty days, the purchaser shall have one year's credit for the residue; and shall receive from the Secretary of the Treasury, or the Governor of the western territory, (as the case may be) a certificate describing the land sold, the sum paid on account, the balance remaining due, the time when such balance becomes payable; and that the whole land sold will be forfeited, if the said balance is not then paid; but that if it shall be duly discharged, the purchaser, or his assignee, or other legal representative, shall be entitled to a patent for the said lands: And on payment of the said balance to the Treasurer, within the specified time, and producing to the Secretary of State a receipt for the same, upon the aforesaid certificate, the President of the United States is hereby authorised to grant a patent for the lands to the said purchaser, his heirs or assigns: And all patents shall be countersigned by the Secretary of State, and recorded in his office. But if there should be a failure in any payment, the sale shall be void, all the money theretofore paid on account of the purchase shall be forfeited to the United States, and the lands thus sold shall be again disposed of, in the same manner as if a sale had never been made; *Provided nevertheless*, That should any purchaser make payment of the whole purchase-money, at the time when the payment of the first moiety is directed to be made, he shall be entitled to a deduction of ten per centum on the part, for which a credit is hereby directed to be given; and his patent shall be immediately issued.

Entries to be made of the date of ſales, &c.

Sec. 8. *Be it further enacted*, That the Secretary of the Treasury, and the Governor of the territory north-west of the river Ohio, shall respectively, cause books to be kept, in which shall be regularly entered, an account of the dates of all the sales made, the situation and number of the lots

Governor or Secretary to tranſmit copies at certain times.

Tracts ſold to be noted on the general plat.

sold, the price at which each was struck off, the money deposited at the time of sales, and the dates of the certificates granted to the different purchasers. The Governor, or Secretary of the said territory shall, at every suspension or adjournment, for more than three days, of the sales under their direction, transmit to the Secretary of the Treasury, a copy of the said books, certified to have been duly examined and compared with the original.—And all tracts sold under this act, shall be noted upon the general plat, after the certificate has been granted to the purchaser.

Navigable rivers to be public highways.

Streams, not navigable, to be common property.

Sec. 9. *And be it further enacted*, That all navigable rivers, within the territory to be disposed of by virtue of this act, shall be deemed to be, and remain public highways: and that in all cases, where the opposite banks of any stream, not navigable, shall belong to different persons, the stream and the bed thereof shall become common to both.

Compenſation of Surveyor Gen.

Preſident to fix compenſation of aſſiſtant ſurveyors

Expenſe not to exceed 3 dolls. for every mile ſurveyed.

Sec. 10. *And be it further enacted*, That the Surveyor-General shall receive, for his compensation, two thousand dollars per annum: and that the President of the United States may fix the compensation of the assistant surveyors, chain-carriers and axe-men: *Provided*, That the whole expence of surveying and marking the lines, shall not exceed three dollars per mile, for every mile that shall be actually run or surveyed.

Regulation of fees to be paid.

Sec 11. *And be it further enacted*, That the following fees shall be paid for the services to be done under this act, to the Treasurer of the United States, or to the receiver in the western territory, as the case may be, for each certificate for a tract containing a quarter of a township, twenty dollars; for a certificate for a tract containing six hundred and forty acres, six dollars; and for each patent for a quarter of a township, twenty dollars: for a section of six hundred and forty acres, six dollars;

And the said fees shall be accounted for by the receivers, respectively.

Oath to be taken by the Surveyor-Gen. &c.

Sec. 12. *And be it further enacted*, That the Surveyor General, assistant-surveyors, and chain-carriers, shall, before they enter on the several duties to be performed under this act, severally take an oath or affirmation, faithfully to perform the same: and the person, to be appointed to receive the money on sales in the western territory, before he shall receive any money under this act, shall give bond with sufficient security, for the faithful discharge of his trust: That for receiving, safe-keeping, and conveying to the treasury the money he may receive, he shall be entitled to a compensation to be hereafter fixed.

The perſon to be appointed to receive the money in the weſtern territory to give bond, &c.

JONATHAN DAYTON, *Speaker of the House of Representatves.*

SAMUEL LIVERMORE, *President of the Senate, pro tempore.*

APPROVED, May the eighteenth, 1796:

GEORGE WASHINGTON, *President of the United States.*

AN ACT *to amend the act, intituled "An act providing for the sale of the Lands of the United States, in the Territory north-west of the Ohio, and above the mouth of Kentucky river."*

Four land offices eſtabliſhed, under the direction of Regiſters.

Sec. 1. *BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That for the disposal of the lands of the United States, directed to be sold by the act, intituled "An act providing for the sale of the lands of the United States, in the territory north-west of the Ohio, and above the mouth of Kentucky river," there shall be four land-offices established in the said territory; One at Cincinnati, for lands below the Little Miami, which have not heretofore been granted; one at Chilicothe, for lands east of the Sciota, south of the lands appropriated for satisfying military bounties to the late army of the United States, and west of the fifteenth range of townships; one at Marietta, for the lands east of the sixteenth range of townships, south of the before-mentioned military lands, and south of a line drawn due west from the north-west corner of the first township of the second range, to the said military lands; and one at Steubenville, for the lands north of the last mentioned line, and east or north of the said military lands: Each of the said offices shall be under the direction of an officer, to be called "The Register of the Land Office," who shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall give bond to the United States, with approved security, in the sum of ten thousand dollars, for the faithful discharge of the duties of his office; and shall reside at the place where the land-office is directed to be kept.

Surveyor-General to tranſmit certain plats.

Sec. 2. *And be it further enacted*, That it shall be the duty of the Surveyor-General, and he is hereby expressly enjoined, to prepare and transmit to the Registers of the several land-offices, before the days herein appointed for commencing sales, general plats of the lands hereby directed to be sold at the said offices respectively, and also to forward copies of each of the said plats to the Secretary of the Treasury.

He ſhall cauſe certain lines to be run and marked.

Sec. 3. *And be it further enacted*, That the Surveyor-General shall cause the townships west of the Muskingum, which by the above-mentioned act are directed to be sold in quarter townships, to be subdivided into half sections of three hundred and twenty acres each, as nearly as may be, by running parallel lines through the same from east to west, and from south to north, at the distance of one mile from each other, and marking corners at the distance of each half mile on the lines running from east to west, and at the distance of each mile on those running from south to north, and making the marks, notes, and descriptions, prescribed to surveyors by the above mentioned act: And the interior lines of townships intersected by the Muskingum, and of all the townships lying east of that river, which have not been heretofore actually sub-divided into sections, shall also be run and marked in the manner prescribed by the said act, for running and marking the interior lines of townships directed to be sold in sections of six hundred and forty acres each: And in all cases where the exterior lines of the townships, thus to be sub-divided into sections or half sections, shall exceed or shall not extend six miles, the excess or deficiency shall be specially noted, and added to or deducted from the western and northern ranges of sections or half sections in such township, according as the error may be in running the lines from east to west, or from south to north; the sections and half sections bounded on the northern and western lines of such townships shall be sold as containing only the quantity, expressed in the returns and plats respectively, and all others as containing the complete legal quantity; and the President of the United States shall fix the compensation of the deputy-surveyors, chain-carriers, and axe-men; *Provided*, the whole expence of surveying and marking the lines, shall not exced three dollars, for every mile that shall be actually run, surveyed and marked.

Certain lands to be ſold.

Sec. 4. *And be it further enacted*, That the lands thus sub-divided (excluding the sections reserved by the above mentioned act) shall be offered for sale in sections and half sections, sub-divided as before directed at the following places and times, that is to say; those below the Little Miami shall be offered at public vendue, in the town of Cincinnati, on the first Monday of April, one thousand eight hundred and one, under the direction of the Register of the land office there established, and of either the Governor or Secretary of the north-western territory: The lands east of Sciota, south of the military lands, and west of the fifteenth range of townships, shall be offered in like manner for sale at Chilicothe, on the first Monday of May, one thousand eight hundred and one, under the direction of the Register of the land-office there established, and of either the Governor or Secretary of the said territory: The lands east of the sixteenth range of townships, south of the military lands and west of the Muskingum, including all the townships intersected by that river, shall be offered for sale in like manner at Marietta, on the last Monday of May, one thousand eight hundred and one, under the direction of the Governor or Secretary, or Surveyor-General of the said territory. The sales shall remain open at each place for three weeks and no longer. The superintendants shall observe the rules and regulations of the above-mentioned act, in classing and selling fractional with entire sections, and in keeping and transmitting accounts of the sales. All lands, remaining unsold, at the closing of either of the public sales, may be disposed of at private sale by the Registers of these respective land-offices, in the manner herein after prescribed; and the Register of the land-office at Steubenville, after the first day of July next, may proceed to sell at private sale, the lands situate within the district assigned to his direction as herein before described, disposing of the same in sections, and classing fractional with entire sections, according to the provisions and regulations of the above-mentioned act and of this act; And the Register of the land-office at Marietta, after the said first day of July next, may proceed to sell at private sale, any of the lands within the district assigned to his direction as aforesaid, which are east of the river Muskingum, excluding the townships intersected by that river, disposing of the same in sections, and classing fractional with entire sections as aforesaid.

Limitation of the price, and mode of purchaſe and payment.

Sec. 5. *And be it further enacted*, That no lands shall be sold by virtue of this act, at either public or private sale, for less than two dollars per acre, and payment may be made for the same by all purchasers, either in specie, or in evidences of the public debt of the United States, at the rates prescribed by the act, intituled, "An act to authorize the receipt of evidences of the public debt in payment for the lands of the United States;" and shall be made in the following manner, and under the following conditions, to wit:

1. At the time of purchase, every purchaser shall, exclusively of the fees hereafter-mentioned, pay six dollars for every section, and three dollars for every half section, he may have purchased, for surveying expenses, and deposit one-twentieth part of the amount of the purchase money, to be forfeited, if within forty days one-fourth part of the purchase money, including the said twentieth part, is not paid.

2. One-fourth part of the purchase money shall be paid within forty days after the day of sale as aforesaid; another fourth part shall be paid within two years; another fourth part within three years; and another fourth part within four years after the day of sale.

3. Interest, at the rate of six per cent. a year, from the day of sale, shall be charged upon each of the three last payments, payable as they respectively become due.

4. A discount, at the rate of eight per cent. a

year, shall be allowed on any of the three last payments, which shall be paid before the same shall become due, reckoning this discount always upon the sum, which would have been demandable by the United States, on the day appointed for such payment.

5. If the first payment of one-fourth part of the purchase money shall not be made within forty days after the sale, the deposit, payment and fees, paid and made by the purchaser, shall be forfeited, and the lands shall and may, from and after the day, when the payment of one-fourth part of the purchase money should have been made, be disposed of at private sale, on the same terms and conditions, and in the same manner as the other lands directed by this act to be disposed of at private sale; *Provided*, That the lands which shall have been sold at public sale, and which shall, on account of such failure of payment, revert to the United States, shall not be sold at private sale, for a price less than the price that shall have been offered for the same at public sale.

6. If any tract shall not be completely paid for within one year after the date of the last payment, the tract shall be advertised for sale by the Register of the land-office within whose district it may lie, in at least five of the most public places in the said district, for at least thirty days before the time of sale: And he shall sell the same at public vendue, during the sitting of the court of quarter sessions of the county in which the land-office is kept, for a price not less than the whole arrears due thereon, with the expenses of sale; the surplus, if any, shall be returned to the original purchaser, or to his legal representative; but if the sum due, with interest, be not bidden and paid, then the land shall revert to the United States. All monies paid therefor shall be forfeited, and the Register of the land-office

may proceed to dispose of the same to any purchaser, as in case of other lands at private sale.

Payments to be made to the Treasurer or receivers of public monies.

Sec. 6. *And be it further enacted*, That all and every the payments, to be made by virtue of the preceding section, shall be made either to the Treasurer of the United States, or to such person or officer as shall be appointed by the President of the United States, with the advice and consent of the Senate, Receiver of public monies for lands of the United States, at each of the places respectively where the public and private sales of the said lands are to be made; and the said Receiver of public monies shall, before he enters upon the duties of his office, give bond, with approved security, in the sum of ten thousand dollars, for the faithful discharge of his trust; and it shall be the duty of the said Treasurer and Receiver of public monies to give receipts for the monies by them received, to the persons respectively paying the same: to transmit within thirty days in case of public sale, and quarterly in case of private sale, an account of all the public monies by them received, specifying the amount received from each person, and distinguishing the sums received for surveying expenses, and those received for purchase money, to the Secretary of the Treasury, and to the Registers of the land-office, as the case may be. The said Receivers of public monies shall, within three months after receiving the same, transmit the monies by them received to the Treasurer of the United States; and the Receivers of public monies for the said sales, and also the Receivers of public monies for the sales which have taken place at Pittsburgh under the act, intituled, "An act providing for the sale of the lands of the United States in the territory north-west of the Ohio, and above the mouth of Kentucky river," shall receive one per cent. on the money received, as a compensation for clerk-hire,

Duty of receivers of public monies.

Their compenſation.

receiving, safe keeping, and transmitting it to the Treasury of the United States.

Duty of the Registers of the land-offices.

Seç. 7. *And be it further enacted*, That it shall be the duty of the Registers of the land-offices respectively, to receive and enter on books kept for that purpose only, and on which no blank leaves or space shall be left between the different entries, the application of any person or persons who may apply for the purchase of any section or half section, and who shall pay him the fee hereafter mentioned, and produce a receipt from the Treasury of the United States, or from the Receiver of public monies appointed for that purpose, for three dollars for each half section such person or persons may apply for, and for at least one-twentieth part of the purchase money, stating carefully in each entry the date of the application, the date of the receipt to him produced, the amount of monies specified in said receipt, and the number of the section or half section, township and range applied for. If two or more persons shall apply at the same time for the said tract, the Register shall immediately determine by lot, in presence of the parties, which of them shall have preference. He shall file the receipt for monies produced by the party, and give him a copy of his entry, and if required, a copy of the description of the tract, and a copy of the plat of the same, or either of them; and it shall be his duty to inform the party applying for any one tract, whether the same has already been entered, purchased, or paid for, and at his request to give him a copy of the entry or entries concerning the same. He shall, three months after the date of each application, if the party shall not have within that time produced to him a receipt of the payment of one-fourth part of the purchase money, including the twentieth part above mentioned, enter under its proper date, in the said book of entries, that the payment has not been made, and that the land has reverted to the United States, and he shall make a note of the same in the margin of the book opposite to the original entry. And if the party shall, either at the time of making the original entry, or at any time within three months thereafter, produce a receipt to him, for the fourth part of the purchase money, including the twentieth part aforesaid, he shall file the receipt, make an entry of the same, under its proper date, in the said book of entries, make a note of the same in the margin of the book, opposite to the original entry, and give to the party a certificate, describing the land sold, the sum paid on account, the balance remaining due, the time and times when such balance shall become due, and that if it shall be duly discharged, the purchaser or his assignee or other legal representative, shall be entitled to a patent for the said lands; he shall also upon any subsequent payment being made and a receipt from the receiver being produced to him, file the original receipt, give a receipt for the same to the party, and enter the same to the credit of the party, in a book kept for that purpose, in which he shall open an account in the name of each purchaser, for each section or half section that may be sold either at public or private sale, and in which he shall charge the party for the whole purchase money, and give him credit for all his payments; making the proper charges and allowances for interest or discount, as the case may be, according to the provisions of the fourth section of this act; and upon the payment being completed and the account finally settled, he shall give a certificate of the same to the party; and on producing to the Secretary of the Treasury, the same final certificate, the President of the United States is hereby authorized to grant a patent for the lands to the said purchaser, his heirs or assigns; and all patents shall

Patents to be iſſued.

be countersigned by the Secretary of State, and recorded in his office.

Regiſters to note the ſales upon the ſurveys, &c.

Sec. 8. *And be it further enacted*, That the Registers of the land-offices respectively, shall also note on the book of surveys, or original plat transmitted to them, every tract which may be sold, by inserting the letter A on the day when the same is applied for, and the letter P on the day when a receipt for one fourth part of the purchase money is produced to them, and by crossing the said letter A on the day when the land shall revert to the United States, on failure of the payment of one-fourth part of the purchase money within three months after the date of application. And the said book of surveys or original plat shall be open at all times, in presence of the Register, for the inspection of any individual, applying for the same and paying the proper fee.

Regiſters to make certain quarterly returns.

Sec. 9. *And be it further enacted*; That it shall be the duty of the Registers of the land-offices to transmit quarterly to the Secretary of the Treasury, and to the Surveyor-General, an account of the several tracts applied for, of the several tracts for which the payment of one fourth part of the purchase money has been made, of the several tracts which have reverted to the United States on failure of the said payment; and also an account of all the payments of monies by them entered, according to the receipts produced to them, specifying the sums of money, the names of the persons paying the same, the names of the officers who have received the same, and the tracts for which the same have been paid.

Sec. 10. *And be it further enacted*; That the Registers aforesaid shall be precluded from entering on their books any application for lands in their own name, and in the name of any other person in trust for them; and if any Register shall wish to purchase any tract of land, he may do it by application in writing to the Surveyor-General, who shall enter the same on books kept for that purpose by him, who shall proceed in respect to such applications, and to any payments made for the same, in the same manner which the Registers by this act are directed to follow, in respect to applications made to them for lands by other persons. The Registers shall, nevertheless, note on the book of surveys, or original plat, the applications and payments thus by them made, and their right to the pre-emption of any tract shall bear date from the day, when their application for the same shall have been entered by the Surveyor-General in his own book. And if any person applying for any tract shall, notwithstanding he shall have received information from the Register, that the same has already been applied for by the said Register, or by any other person, insist to make the application, it shall be the duty of the Register to enter the same, noting in the margin that the same tract is already purchased; but upon application of the party made in writing, and which he shall file, he may and shall at any future time enter under its proper date, that the party withdraws his former application, and applies in lieu thereof for any other tract: *Provided lways*, That the party shall never be allowed thus o withdraw his former application, and to apply in ieu thereof for another tract, except when the tract lescribed in his former application shall have been pplied for previous to the date of that his former pplication.

Mode of making purchaſes by regiſters.

Sec. 11. *And be it further enacted*, That the Seretary of the Treasury shall and may prescribe uch further regulations, in the manner of keeping ooks and accounts, by the several officers in this ct mentioned, as to him may appear necessary and roper, in order fully to carry into effect the provisions of this act.

Secretary of the Treaſury maypreſcribe further regulations.

Allowance to the Regiſters.

Sec. 12. *And be it further enacted*, That the Registers of the land-offices, respectively, shall be entitled to receive from the Treasury of the United States, one-half per cent. on all the monies expressed in the receipts by them filed and entered, and of which they shall have transmitted an account to the Secretary of the Treasury, as directed by this act; and they shall further be entitled to receive, for their own use, from the respective parties, the following fees for services rendered, that is to say; for every original application for land, and a copy of the same, for a section three dollars, for a half section two dollars; for every certificate stating that the first fourth part of the purchase money is paid; twenty-five cents; for every subsequent receipt for monies paid, twenty-five cents; for the final settlement of account and giving the final certificate of the same, one dollar; for every copy, either of an application or of the description of any section or half section, or of the plat of the same, or of any entry made on their books, or of any certificate heretofore given by them, twenty-five cents for each; and for any general inspection of the book of surveys, or general plat, made in their presence, twenty-five cents.

Allowance to ſuperintendants of public ſales.

Sec. 13. *And be it further enacted*, That the superintendants of the public sales, to be made by virtue of this act, and the superintendants of the sales which have taken place by virtue of the act entituled, "An act providing for the sale of the lands of the United States in the territory north-west of the river Ohio, and above the mouth of Kentucky river," shall receive five dollars a day for every day whilst engaged in that business; and the accounting officers of the Treasury are hereby authorized to allow a reasonable compensation for books, stationery, and clerk hire, in settling the accounts of the said superintendants.

Sec. 14. *And be it further enacted*, That the fee to be paid for each patent for a half section shall be four dollars, and for every section five dollars, to be accounted for by the receiver of the same.

Patent fees.

Sec. 15. *And be it further enacted*, That the lands of the United States reserved for future disposition, may be let upon leases by the Surveyor-General, in sections or half sections, for terms not exceeding seven years, on condition of making such improvements as he shall deem reasonable.

Leaſes of the reſervations may be given by the Surveyor-General.

Sec. 16. *And be it further enacted*, That each person who before the passing of this act shall have erected, or begun to erect, a grist-mill or saw-mill upon any of the lands herein directed to be sold, shall be entitled to the pre-emption of the section including such mill, at the rate of two dollars per acre; *Provided*, The person or his heirs, claiming such right of pre-emption, shall produce to the Register of the land-office satisfactory evidence that he or they are entitled thereto, and shall be subject to and comply with the regulations and provisions by this act prescribed for other purchasers.

Pre-emption right given to builders of mills.

Sec. 16. *And be it further enacted*, That so much of the "Act providing for the sale of the lands of the United States in the territory northwest of the river Ohio, and above the mouth of Kentucky river," as comes within the purview of this act, be and the same is hereby repealed.

Repeal of part of the former act.

THEODORE SEDGWICK,
Speaker of the House of Representatives.
TH: JEFFERSON, *Vice-President of the United States, and President of the Senate.*

APPROVED—May 10th, A. D. 1800.
JOHN ADAMS,
President of the United States.

AN ACT *regulating the Grants of Land, and providing for the disposal of the Lands of the United States south of the State of Tennessee.*

Reſidents in the Miſſiſſippi territory confirmed in their claims.

Proviſo.

BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That any person or persons, and the legal representatives of any person or person or persons, who were resident in the Mississippi territory on the twenty-seventh day of October, in the year one thousand seven hundred and ninety-five; and who had prior to that day obtained either from the British government of West Florida, or from the Spanish government, any warrant or order of survey for lands lying within the said territory, to which the Indian title had been extinguished, and which were on that day actually inhabited and cultivated by such person or persons, or for his or their use, shall be confirmed in their claims to such lands in the same manner as if their titles had been completed: *Provided however,* That no such incomplete title shall be confirmed, unless the person in whose name such warrant or order of survey had been granted, was at the time of its date either the head of a family, or above the age of twenty-one years.

Grant to non claimants.

Sec. 2. *And be it further enacted,* That to every person, or to the legal representative or representatives of every person who, being either the head of a family, or of twenty-one years of age, did on that day of the year seventeen hundred and ninety-seven, when the Mississippi territory was finally evacuated by the Spanish troops, actually inhabit and cultivate a tract of land in the said territory, not claimed by virtue either of the preceding section, or of any British grant, or of the articles of agreement and cession between the United States and the state of Georgia, the said tract of land thus inhabited and cultivated, shall be granted: *Provided however*, That not more than one tract shall be thus granted to any one person, and the same shall not contain more than six hundred and forty acres: *And provided also*, That this donation shall not be made to any person who claims any other tract of land in the said territory by virtue of any British or Spanish grant, or order of survey.

Proviſions.

Sec. 3. *And be it further enacted*, That every person, and the legal representatives of every person, who being the head of a family, or above the age of twenty-one years, doth at the time of passing this act, inhabit and cultivate a tract of land in the said territory, not claimed by virtue of the preceding sections of this act, or of any British grant, or of the articles of agreement and cession above mentioned, shall be entitled to a preference in becoming the purchaser from the United States, of such tract of land, at the price at which the other lands of the United States in the said territory, are by this act directed to be sold; and payment may be made therefor in the same manner, and under the same conditions as directed by this act for such other lands: *Provided however*, That no interest shall be charged upon any of the instalments until they respectively become payable.

Reſidents entitled to a preference as purchaſers:

Without intereſt.

Sec. 4. *And be it further enacted*, That for the disposal of the lands of the United States within the Mississippi territory, two land offices shall be established in the same, one at such place in the county of Adams, as shall be designated by the President of the United States, for the lands lying west of "Pearl river," some times called "half-way river;" and one at such place in the county of Washington, as shall be designated by the President of the United States, for the lands lying east of Pearl river: and for each of the said offices, a register and a receiver of public monies shall be

Two land offices in the Miſſiſſippi territory.

Regiſter and receiver of public money in each.

appointed, who shall give security in the same manner, and in the same sums, and whose duties and authority shall in every respect be the same in relation to the lands which shall be disposed of at their offices, as are by law provided in relation to the registers and the receivers of public monies in the several offices established for the disposal of the lands of the United States, north of the river Ohio, and above the mouth of Kentucky river.

Security.

Sec. 5. *And be it further enacted*, That every person claiming lands by virtue of any British grant, or of the three first sections of this act, or of the articles of agreement and cession between the United States and the state of Georgia, shall before the last day of March, in the year one thousand eight hundred and four deliver to the register of the land office, within whose district the land may be, a notice in writing, stating the nature and extent of his claims, together with a plot of the tract or tracts claimed, and shall also on or before that day, deliver to the said register, for the purpose of being recorded, every grant, order of survey, deed, conveyance, or other written evidence of his claim, and the same shall be recorded by the said register, in books to be kept for that purpose, on receiving from the parties at the rate of twelve and a half cents, for every hundred words contained in such written evidence of their claim; and if such person shall neglect to deliver such notice in writing, of his claim, together with a plot as aforesaid, or cause to be recorded such written evidence of the same, all his right, so far as the same is derived from the above mentioned articles of agreement, or from the three first sections of this act, shall become void, and forever thereafter be barred; nor shall any grant, order of survey, deed, conveyance, or other written evidence, which shall not be recorded as above directed, ever after be considered

Claimants & reſidents to ſtate their claims before the 31ſt of March, 1804.

Neglect thereof to bar their claims.

or admitted as evidence in any court in the United States, against any grant derived from the United States.

Commiſſioners appointed to ſettle the claims.

Sec. 6. *And be it further enacted*, That the Register of the land-office in Adams county, and two other persons who shall be appointed by the President of the United States alone, shall for the lands lying west of Pearl river, and the register of the land-office of Washington county, together with two other persons who shall be appointed by the President of the United States alone, shall for the lands lying east of Pearl river, respectively be commissioners, for the purpose of ascertaining the rights of persons claiming the benefit of the articles of agreement and cession between the United States and the state of Georgia, or of the three first sections of this act; and the said commissioners shall, previous to entering on the duties of their appointment, respectively take or subscribe the following oath or affirmation, before some person qualified to administer the same: "I do solemnly swear (or affirm) that I will impartially exercise and discharge the duties imposed upon me by an act of Congress, entitled, "An act regulating the grants of lands and providing for the disposal of the lands of the United States south of the state of Tennessee, to the best of my skill and judgment." And it shall be the duty of the said commissioners to meet in the county of Adams, and in Washington county aforesaid, respectively, on or before the first day of December next, and they shall not adjourn to any other place, or for a longer time than three days, until the first day of April, one thousand eight hundred and four, and until they shall have completed the business of their appointment. And each board, or a majority of each board, shall, in their respective districts, have power to hear and decide in a summary manner,

Their oath or affirmation.

Duties.

Powers.

Appointment of clerks.

Duties.

Papers, &c. on diſſolution of the boards, to be lodged in the Secretary of State's office.

Oath or affirmation of the clerks.

all matters respecting such claims, also to administer oaths and examine witnesses, and such other testimony as may be adduced, and to determine thereon according to justice and equity: which determination, so far as relates to any rights derived from the articles of agreement above mentioned, or from the three first sections of this act, shall be final; and for the safe keeping of the papers and evidence produced and recording their proceedings, the said boards, respectively, shall have power to appoint a clerk, whose duty it shall be to enter in a book to be kept for that purpose, perfect and correct minutes of the proceedings, decisions, meetings and adjournments of the boards, together with the evidence on which such decisions are made; which books and papers on the dissolution of the boards shall be transmitted to, and lodged in the office of the Secretary of State; and on or before such clerk's entering on the duties of his office, he shall take and subscribe the following oath or affirmation, to wit: "I do solemnly swear (or affirm, as the case may be) that I will truly and faithfully enter and record all minutes, proceedings and decisions of the board of commissioners for the county of appointed under and by virtue of an act of the United States, entitled "An act regulating the grants of land, and providing for the disposal of the lands of the United States, south of the state of Tennessee," and well and faithfully do and perform all other acts and things in the said act pointed out as the duty of a clerk of the said board," which oath shall be entered on the minutes of the board; and when it shall appear to them that the claimant is entitled to a tract of land under the articles of agreement and cession with Georgia aforesaid, in virtue of a British or Spanish grant, legally and fully executed, they shall give a certificate thereof, describ

Titles, when to be granted, and how,—under the Georgia ceſſion.

3

ing the tract of land and the grant, and stating that the claimant is confirmed in his title thereto by virtue of the said articles; which certificate, being recorded by the register of the land-office, whose duty it shall be to record the same in a book to be kept by him for that purpose, shall amount to a relinquishment for ever, on the part of the United States to any claim whatever to such tract of land; and when it shall appear to the said commissioners that the claimant is entitled to a tract of land by virtue of a settlement under the Bourbon act of Georgia, recognized in the said articles of agreement and cession, or of either of the two first sections of this act, they shall give a certificate thereof, stating the circumstances of the case, and that the claimant is entitled to receive a patent for such a tract of land by virtue of this act, which certificate being duly entered with the register of the land-office, on or before the first day of January, eighteen hundred and five, shall entitle the party to a patent for the said tract, which shall issue in like manner as is provided by this act for the other lands of the United States, without the party paying any thing therefor, except the surveying expences and the fees of office. And when it shall appear to the said commissioners that the claimant is entitled to a right of pre-emption by virtue of the third section of this act, they shall give a certificate thereof, directed to the register of the land-office; which certificate being duly entered with the register of the land-office, on or before the first day of January, eighteen hundred and five, shall entitle the party to become a purchaser for such tract of land: *Provided*, That he shall, prior to the first day of January, eighteen hundred and six, also produce a receipt from the treasurer of the United States, or from the receiver of public monies for at least one-fourth part of the purchase money, and also for the

Under the Bourbon act of Georgia.

Right of pre-emption.

Proviſo.

payment of the surveying expenses; and the party shall upon payment in full of the purchase money, on which, if any of the three last payments shall be made in advance, he shall be allowed the same discount allowed in similar cases by this act, be entitled to receive a patent, which shall issue in like manner, and on payment of the same fees as are provided by this act for the other lands of the United States; but if such person shall neglect to enter his certificate, on or before the first day of January, eighteen hundred and five, or to make such first payment as above provided; his right of pre-emption shall cease and become void: *Provided also, and it is further enacted,* That whenever a tract of land to which any person might be entitled by virtue of the three first sections of this act, shall also be claimed by the holder of a British patent, legally and fully executed, and duly recorded in conformity to the provisions of this act, who is not confirmed in his claim by the articles of agreement above mentioned, the commissioners shall, in the certificate granted to the person claiming the land by virtue of this act, state the existence of the adverse claims, in which case the party shall not be entitled to a patent, unless he shall have obtained in his favour a judicial decision in a court having jurisdiction therein, and for every certificate so granted by the boards respectively the clerk of the board granting the same, shall be entitled to demand and receive of the party to whom the same is granted, the sum of two dollars.

Proviſo.

Clerk to receive two dollars for every certificate.—

Sec. 7. *And be it further enacted,* That the commissioners aforesaid, shall, on or before the first day of December, one thousand eight hundred and four, make to the Secretary of the Treasury a full report of all the British grants legally and fully executed, which have been duly recorded in conformity to the provisions of this act, the title of which

Commiſſioners all report to the ſecretary of the treaſury.

is not confirmed to the holders thereof, by the articles of agreement above mentioned, stating the present situation of the lands, the date of such grants, the conditions annexed thereto, and how far the same have been fulfilled, together with such other remarks thereon as they may think proper; which report shall be laid before Congress at their next session, and the lands contained in such grants shall not be otherwise disposed of, until the end of one year after that time.

Report to be laid before Congreſs.

Unconfirmed claims provided for.

Sec 8. *And be it further enacted*, That so much of the five millions of acres reserved for that purpose by the articles of agreement above mentioned, as may be necessary to satisfy the claims not confirmed by that agreement, which are embraced by the two first sections of this act, or which may be derived from British grants for lands which have not been regranted by the Spanish government, be, and the same is hereby appropriated for that purpose; and so much of the residue of the said five millions of acres or of the net proceeds thereof as may be necessary for that purpose, shall be, and is hereby appropriated, for the purpose of satisfying, quieting and compensating, for such other claims to the lands of the United States south of the state of Tennessee, not recognized in the above mentioned articles of agreement, and which are derived from any act or pretended act of the state of Georgia, which Congress may hereafter think fit to provide for, provided however that no other claims shall be embraced by this appropriation, but those, the evidence of which shall have, on or before the first day of January next, been exhibited by the claimants to the Secretary of State, and recorded in books to be kept in his office for that purpose, at the expense of the party exhibiting the same, who shall pay to the person employed by the Secretary of State for recording the same, at the rate of twelve

Proviſo.

and an half cents for every hundred words contained in each document thus recorded; nor shall any grant, deed, conveyance, or other written evidence of any claim to the said lands, derived, or pretended to be derived from the state of Georgia, and not recognized by the above mentioned articles of agreement, ever after be admitted or considered as evidence in any of the courts of the United States, unless it shall have been exhibited, and recorded, in the manner and within the time above mentioned; and provided also, that nothing herein contained, shall be construed to recognize or affect the claims of any person or persons, to any of the lands above mentioned; and provided also, that no certificate shall be granted for lands lying east of the Tombigby river, nor for lands situated without the boundary lines established by treaty between the United States and the Choctaws, made the seventeenth day of October, in the year eighteen hundred and two.

Authority given to receive propoſitions of compromiſe.

Sec. 9. *And be it further enacted*, That the Secretary of State, the Secretary of the Treasury and the Attorney-General for the time being, be, and are hereby authorised and empowered to receive such propositions of compromise and settlement, as may be offered by the several companies, or persons claiming public lands in the territory of the United States, lying south of the state of Tennessee, and west of the state of Georgia; and report their opinion thereon to Congress at their next session.

Land ſurveyor ſouth of Tenneſſee appointed, who ſhall engage deputies. Duties.

Sec. 10. *And be it further enacted*, That a surveyor of the lands of the United States, south of the state of Tennessee, shall be appointed, whose duty it shall be to engage a sufficient number of skilful surveyors as his deputies, and to cause the lands above mentioned, to which the titles of the Indian tribes have been extinguished, to be surveyed and divided in the manner hereafter directed, and to do and perform all such other acts, in relation to the said lands, as the surveyor-general is authorised and directed to do in relation to the lands lying north west of the river Ohio, and above the mouth of the river Kentucky.

Further duties of the ſurveyor.

Sec. 11. *And be it further enacted*, That the lands for which certificates of any description whatever, shall have been granted by the commissioners in pursuance of the provisions of this act, shall, as soon as may be, be surveyed under the direction of the surveyor of the lands of the United States above mentioned, in conformity to the true tenor and intent of such certificates: and the said surveyor shall also cause all the other lands of the United States, in the Mississippi territory, to which the Indian title has been extinguished, to be surveyed as far as practicable, into townships, and subdivided into half sections, in the manner provided for the surveying of the lands of the United States situate north-west of the river Ohio, and above the mouth of Kentucky river, and shall transmit to the registers of the land offices respectively, general and particular plots of all the lands surveyed as aforesaid, and shall also forward copies of the said plots to the Secretary of the Treasury; and he shall also, with the approbation of the said Secretary, fix the compensation of the deputy surveyors, chain carriers, and axe-men: *Provided*, That the whole expense of surveying and marking the lines shall not exceed four dollars for every mile that shall be actually run, surveyed and marked: *And provided*, That the expense of surveying those tracts of land, to which the title of the claimants is confirmed by the articles of agreement, or by the two first sections of this act, and those tracts claimed under British grants, a return of which is to be made to Congress, shall not be advanced by the United States, but shall be paid to the deputy surveyor by the par-

Expenſes of ſurveying.

ties claiming the same; and that in relation to all the land sold by the United States, the purchaser shall make the same payment for surveying expenses, which is directed by law to be made for lands sold north of the river Ohio.

The lands aforeſaid unappropiated to be ſold.

Sec. 12. *And be it further enacted*, That all the lands aforesaid, not otherwise disposed of, or excepted by virtue of the preceding sections of this act, shall, with the exception of the section number sixteen, which shall be reserved in each township for the support of schools within the same, with the exception also of thirty-six sections to be located in one body by the Secretary of the Treasury for the use of Jefferson college, and also with the exception of such town lots not exceeding two in the town of Natchez, and of such an out-lot adjoining the same, not exceeding thirty acres, as may be the property of the United States, to be located by the Governor of the Mississippi territory, for the use of the said college, be offered for sale to the highest bidder, under the direction of the Governor of the Mississippi territory, of the surveyor of the lands of the United States, above mentioned, and of the register of the land-office at the places respectively, where the land offices are kept, and on such day or days as shall, by a public proclamation of the President of the United States, be designated for that purpose. The sales shall remain open at each place for three weeks and no longer; and all lands, other than the section number sixteen, remaining unsold at the closing of the public sales, may be disposed of at private sale by the registers of the respective land-offices in the same manner, under the same regulations, for the same price, and on the same terms and conditions as is provided by law, for the sale of the lands of the United States, north of the river Ohio, by an act, intituled, "An act to amend the act intituled,

Under whoſe directions.

Sales to remain open for three weeks—then private ſales, by whom—

and on what terms.

"An act providing for the sale of the lands of the United States, in the territory north-west of the Ohio, and above the mouth of Kentucky river:" *Provided always*, That the lands which may be sold at public sale by virtue of this act, shall not be sold for less than two dollars per acre, and shall in every other respect be sold on the same terms and conditions as was provided for the lands sold at public sale, by the last recited act. And patents shall be obtained for all lands granted or sold in the Mississippi territory in the same manner and on payment of the same fees as is provided for lands sold north of the river Ohio, by the said last recited act; *Provided however*, That evidences of the public debt of the United States shall not be received in payment for the purchase of said lands.

Proviſo.

Patent fees.

Proviſo.

Sec. 13. *And be it further enacted*, That the registers of the land offices, and the receivers of public monies, appointed in pursuance of this act shall receive the same fees and compensation as the registers and receivers of the land offices, north of the river Ohio, and the registers shall also be entitled to receive twenty-five cents for entering each certificate granted by the commissioners above mentioned. The surveyor of the lands of the United States, appointed in pursuance of this act, shall receive an annual compensation of fifteen hundred dollars, and shall be allowed not exceeding two clerks, whose whole compensation shall not exceed one thousand dollars per annum. The commissioners appointed to ascertain the rights of persons claiming the benefit of the articles of agreement above mentioned, and of this act, shall receive each a compensation of two thousand dollars for the whole of their services, the registers of the land offices excepted, who shall receive only five hundred dollars each, for their services as commissioners; the clerks of the boards of commissioners

Fees of the regiſters of the landoffice, and receivers of public monies.

Salary of the Surveyor—

and of his two clerks.

Compenſation of the commiſſioners,

and of their clerks. Pay of the ſuperintendants.

a compensation not exceeding ſeven hundred and fifty dollars each: and the superintendants of the public sales shall receive six dollars each, for each day's attendance on the said sales.

Commiſſions of the ſurveyor, regiſter of the land offices, and receiver of public monies.

Sec. 14. *And be it further enacted*, That the President of the United States shall have full power to appoint and commission the surveyor, registers of the land-offices, and receivers of public monies above mentioned, in the recess of Congress, and their commissions shall continue in force until the end of the session of Congress next ensuing such appointment.

Appropriation for this act—

Sec. 15. *And be it further enacted*, That a sum not exceeding twenty thousand dollars, be, and the same is hereby appropriated for the purpose of carrying this act into effect: which sum shall be paid out of any unappropriated monies in the treasury.

Appropriation of the monies ariſing from the above ſales.

Sec. 16. *And be it further enacted*, That the net proceeds of the lands which may be sold by virtue of this act, after deducting the surveying expences and other expences incident to the sale thereof, shall, and the same are hereby appropriated in the first place, towards paying to the state of Georgia a sum of one million two hundred and fifty thousand dollars, in pursuance of the articles of agreement and cession entered into between the United States and that state; and the Secretary of the Treasury is hereby authorised and directed to pay accordingly, and from time to time, as the same shall be received in the treasury of the United States, so much of the said net proceeds as will amount to the said sum of one million two hundred and fifty thousand dollars.

Navigable rivers ſouth of Tenneſſee

Sec. 17. *And be it further enacted*, That al navigable rivers within the territory of the United

States, south of the state of Tennessee, shall be deemed to be and remain public highways. to remain public.

NATHL. MACON,
Speaker of the House of Representatives.
STEPHEN R. BRADLEY,
President of the Senate, pro tempore.

March 3, 1803.
APPROVED,
TH: JEFFERSON.

AN ACT *supplementary to the act, intituled "An act regulating the Grants of Land, and providing for the disposal of the Lands of the United States, south of the state of Tennessee."*

BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That persons claiming lands in the Mississippi territory, by virtue of any British or Spanish grant, or by virtue of the three first sections of the act to which this is a supplement, or of the articles of agreement and cession with the state of Georgia, may, after the last day of March, in the year one thousand eight hundred and four, and until the last day of November, then next following, give notice in writing, of their claims, to the register of the land office, for the lands lying west of Pearl river, and have the same recorded in the manner prescribed by the fifth section of the act to which this is a supplement: *Provided however,* That where lands are claimed by virtue of a complete Spanish or British grant in conformity with the articles of agreement and cession between the United States, and the state of Georgia, it shall not be necessary for the claimant to have any other evidence of his claim recorded except the original

Notice to be given to the regiſter of the landoffice by perſons claiming lands in the Miſſiſſippi territory weſt of Pearl river, and their claims to be recorded.

Proviſo.

grant or patent, together with the warrant or order of survey and the plot; but all the subsequent conveyances of deeds shall be deposited with the register to be by him laid before the commissioners when they shall take the claim into consideration: and the powers vested by law in the commissioners appointed for the purpose of ascertaining the claims to lands lying west of Pearl river, shall, in every respect extend and apply to claims which may be made by virtue of this section; and the same proceedings shall thereupon be had as are prescribed by the act aforesaid, in relation to claims which shall have been exhibited on or before the last day of March, in the year one thousand eight hundred and four.

Commiſſioners authorized to adjourn from time to time.

Sec. 2. *And be it further enacted*, That the commissioners aforesaid, appointed to adjust the claims to lands lying west of Pearl river, shall have power to adjourn from time to time, and for such time as they may think fit; *Provided however*, That they shall meet on the first day of December, in the year one thousand eight hundred and four, and shall not afterwards adjourn for a longer time than three days, nor until they shall have completed the business for which they were appointed: *And provided also*, That nothing contained in this act, nor in that to which this is a supplement, shall be construed to prevent the said commissioners, nor those appointed to adjust the claims to lands lying east of Pearl river, from acting and deciding at any time, on any claim which has been exhibited in the manner prescribed by law, although the evidence of the same may not, at that time, have been transcribed on the books of the register.

Proviſo.

Proviſo.

Sec. 3. *And be it further enacted*, That when any Spanish grant, warrant or order of survey, shall be produced to either of the said boards of commissioners, for lands which were not, at the date of such grant, warrant or order of survey, or within one year thereafter, inhabited, cultivated, or occupied by, or for the use of the grantee; or whenever either of the said boards shall not be satisfied, that such grant, warrant or order of survey, did issue, at the time when the same bears date, the said commissioner shall not be bound to consider such grant, warrant or order of survey, as conclusive evidence of the title, but may require such other proof of its validity as they may deem proper; and the said boards shall make a full report to the secretary of the treasury, to be by him laid before Congress, for their final decison of all claims grounded on such grants, warrants or orders of survey, as may have been disallowed by the said boards, on suspicion of their being antedated, or otherwise fraudulent.

What evidence may be required by the boards of commiſſioners concerning Spaniſh grants.

Boards of commiſſioners to make reports to the ſecretary of the treaſury in certain caſes.

Sec. 4. *And be it further enacted*, That the secretary of the treasury, shall be, and he is hereby authorised to employ an agent, whose compensation shall not exceed one thousand five hundred dollars in full for all his services, for the purpose of appearing before the said commissioners, in behalf of the United States, to investigate the claims for lands, and to oppose all such as he may deem fraudulent or unfounded. And each of the said boards of commissioners shall have the same powers to compel the attendance of witnesses, as are now vested in the courts of the United States.

Agent to be appointed by the ſecretary of the treaſury.

Sec. 5. *And be it further enacted*, That the board of commissioners, appointed to adjust the claims to lands lying west of Pearl river, shall be authorised to employ an assistant clerk, and also a translator of the Spanish language, to assist them in the dispatch of the business which may be brought before them, and for the purpose of recording Spanish grants, deeds or other evidences of claims on the register's books: the said translator shall receive for the recording done by him, the

Board of commiſſioners for adjuſting claims to land, ſouth of Pearl river, authoriſed to employ an aſſiſtant clerk and a tranſlator of the Spaniſh language.

fees already provided by law, and may be allowed, not exceeding fifty dollars, for every month he shall be employed, provided, that the whole compensation, other than that arising from fees, shall not exceed six hundred dollars, the assistant clerk shall be allowed a sum not exceeding five hundred dollars for his services; and each of the commissioners of the said board, in addition to the compensation now fixed by law, shall be allowed six dollars for every day he shall attend on the board, after the last day of November, in the year one thousand eight hundred and four: *Provided*, That this additional compensation shall not exceed two thousand dollars, for each of the said commissioners.

Proviſo.

Salary of the ſurveyor of lands ſouth of Tenneſſee

Lands claimed under Spaniſh grants, the titles to which are not confirmed, to be ſurveyed at the expence of the United States.

Sec. 6. *And be it further enacted*, That from and after the first day of April, in the year one thousand eight hundred and four, the surveyor of the lands of the United States south of the state of Tennessee, shall receive an annual compensation of two thousand dollars, in lieu of the annual compensation now fixed by law. And the lands claimed by virtue of Spanish grants, legally and fully executed, and the titles to which were confirmed by the articles of agreement and cession between the United States and the state of Georgia, shall be surveyed in the manner prescribed by the act to which this is a supplement, at the expense of the United States; any thing in the said act to the contrary, notwithstanding.

Lands north of the M. T. and ſouth of Tenneſſee, and bounded on Georgia and Louiſiana, made part of the Miſſiſſippi territory.

Sec. 7. *And be it further enacted*, That the tract of country lying north of the Mississippi territory, and south of the state of Tennessee, and bounded on the east by the state of Georgia, and on the west by Louisiana, shall be, and the same is hereby annexed to, and made a part of the Mississippi territory.

Sec. 8. *And be it further enacted*, That so much of the eighth section of an act, intituled

“ An act regulating the grants of land, and providing for the disposal of the lands of the United States, south of the state of Tennessee,” as provides, “ that no certificate shall be granted for lands lying east of the Tombigby river,” be, and the same hereby is repealed: *Provided*, That no certificate shall be granted for any lands to which the Indian title has not been extinguished.

Repeal of part of a former act.

Proviſo.

Sec. 9. *And be it further enacted*, That the commissioners appointed in pursuance of the act aforesaid, be, and they are hereby authorised and required to make, on or before the first day of December next, a full report to the secretary of the treasury, of all claims that have been, or may be laid before them, for lands held by warrant of survey and improvement, in cases where the claimants were minors, and not heads of families, at the time such warrants were issued, with the circumstances which occasioned the issuing of such warrants, and the validity which has been considered as attached to the same.

Com miſſioners to make a report to the ſecretary of the treaſury in a certain caſe.

Sec. 10. *And be it further enacted*, That for the purpose of carrying this act into effect, a sum not exceeding twenty thousand dollars, shall be, and the same is hereby appropriated, to be paid out of any money in the treasury, not otherwise appropriated.

Appropriation for carrying this act into effect.

Sec. 11. *And be it further enacted*, That the execution of so much of the twelfth section of the act to which this is a supplement, as excepts “ such town lots, not exceeding two, in the town of Natchez, and such an out lot adjoining the same, not exceeding thirty acres, as may be the property of the United States, to be located by the governor of the Mississippi territory, for the use of Jefferson college,” be, and the same is hereby suspended until the end of the next session of Congress.

Part of the 12th ſection of the act to which this is a ſupplement ſuſpended.

Sec. 12. *And be it further enacted*, That trans-

Tranſcripts of the Britiſh records of Weſt Florida to be evidence in certain caſes.

cripts of the records of the British province of West Florida, to claims for land therein, and which have been delivered to the government of the United States, may be produced as evidence, and shall be entitled to the same weight in any court of the United States, as if the same had been delivered or shall be delivered, to either of the registers of the land offices in the Mississippi territory, before the last of March, one thousand eight hundred and four, any thing in this act, or in the fifth section of the act to which this is a supplement, to the contrary notwithstanding.

Appropriation for extending the external commerce, & exploring the limits of the U. States in Louisiana.

Sec. 13. *And be it further enacted*, That the sum of three thousand dollars be, and the same is hereby appropriated, for the purpose of extending the external commerce, and exploring the limits of the United States, in the new acquired territory of Louisiana, out of any monies in the treasury not otherwise appropriated.

Major general La Fayette authorized to make his location upon public land in the territory of Orleans.

Sec. 14. *And be it further enacted*, That major general La Fayette be, and he is hereby authorised and empowered to locate and survey the lands allowed him by the fourth section of an act, entitled "An act to revive and continue in force an act in addition to an act, entitled "An act in addition to an act, regulating the grants of land appropriated for military services, and for the society of United Brethren for propagating the gospel among the Heathen, and for other purposes," on any lands the property of the United States, in the territory of Orleans; and on presenting the surveys of the said land to the secretary of the treasury, the President of the United States is hereby authorised to issue letters patent to the said major general La Fayette for the quantity of lands allowed by the said act.

NATHL. MACON,
Speaker of the House of Representatives.
JESSE FRANKLIN,
President of the Senate, pro tempore.

March 27, 1804.

APPROVED,
TH: JEFFERSON.

The 1st, 9th, 10th, 11th, 12th, 13th, 14th, 15th, 16th, 17th and 18th sections of

AN ACT *making provision for the disposal of the public lands in the Indiana territory; and for other purposes.*

BE *it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That the powers vested by law in the surveyor general, shall extend over all the public lands of the United States to which the Indian title has been or shall hereafter be extinguished, north of the river Ohio, and east of the river Mississippi: and it shall be the duty of the said surveyor general, to cause the said lands to be surveyed into townships, six miles square, and divided in the same manner and under the same regulations, and to do and perform all such other acts in relation to the said lands, as is provided by law in relation to the lands of the United States, situate north-west of the river Ohio, and above the mouth of Kentucky river: *Provided*, That the whole expense of surveying and marking the lines shall not exceed three dollars for every mile that shall be actually run, surveyed and marked: *And provided also*, That such tracts of land as are lawfully claimed by indi-

Powers of the Surveyor General extended over all the lands of the United States north of the Ohio, and eaſt of the Miſſiſſippi; and he ſhall cauſe them to be laid off into townſhips.

Proviſo.

Proviſo.

viduals within the said boundaries, and the title whereto has been or shall be recognized by the United States, shall be laid out and surveyed at the expense of the parties respectively, in conformity with the true boundaries of such tracts. And it shall also, be the duty of the said surveyor general to cause to be run, surveyed and marked such of the Indian boundary lines of the said lands, as have not yet been surveyed; and with the approbation of the President of the United States to ascertain by astronomical observations the positions of such places north of the river Ohio and east of the river Mississippi, as may be deemed necessary for the correctness of the surveys, and to be the most important points of the geography of the country.

Fractional ſections may be ſold, united, or ſingly.

Sec 9. *And be it further enacted*, That fractional sections of the public lands of the United States, either north of the river Ohio, or south of the state of Tennessee, shall, under the directions of the secretary of the treasury, be either sold singly, or by uniting two or more together: any act to the contrary notwithstanding: *Provided*, That no fractional sections shall be sold in that manner until after they shall have been offered for sale to the highest bidder, in the manner hereinafter directed.

Proviſo.

Public lands of the United States may be ſold in whole, half or quarter ſections.

Sec. 10. *And be it further enacted*, That all the public lands of the United States, the sale of which is authorized by law, may after they shall have been offered for sale to the highest bidder in quarter-sections, as herein after directed, be purchased at the option of the purchaser, either in entire sections, in half sections, or in quarter sections; in which two last cases the section shall be divided into half sections by lines running due north and south, and the half sections shall be divided into quarter sections by lines running due east and west. And in every instance in which a subdivision of the lands of the United States, as surveyed

All ſubdiviſions to be at

in conformity with law, shall be necessary to ascertain the boundaries or true contents of the tract purchased, the same shall be done at the expense of the purchaser.*

the expenſe of purchaſers

Sec. 11. *And be it further enacted*, That no interest shall be charged on any instalment which may hereafter become due, in payment for any of the public lands of the United States, wherever situated, and which have been sold in pursuance of the act, intituled "An act to amend the act intituled "An act providing for the sale of the lands of the United States, in the territory north-west of the Ohio, and above the mouth of Kentucky river," or which may hereafter be sold by virtue of that, or of any other act of Congress; *Provided*, That such instalments shall be paid on the day on which the same shall become due: but the interest shall be charged and demanded in conformity with the provisions heretofore in force, from the date of the purchase on each instalment which shall not be paid on the day on which the same shall become due; *Provided however*, That on the instalments which are or may become due before the first day of October next, interest shall not be charged, except from the time they became due until paid, but in failure to pay the said instalments on the said first day of October, interest shall be charged thereon, in conformity with the provisions heretofore in force, from the date of the purchase.

Intereſt not payable for purchaſes of public land, if the principal be punctually paid.

Sec. 12. *And be it further enacted*, That the sections which have been heretofore reserved, and are by this act directed to be sold, also, the fractional sections, classed as is by the ninth section of this act directed, and all the other lands of the United States, north of the Ohio, and above the mouth of Kentucky river, shall be offered for sale in quarter sections to the highest bidder, under the

Certain ſections of lands and fractional ſections & other public land north of the Ohio and above the mouth of Kentucky river, to be offered for ſale: Under whoſe direction.

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* But ſee ſection 3d of the next act.

Times and places of ſale.

How long the ſales to remain open.

Terms of ſale.

Other public lands, north of the Ohio, or ſouth of Tenneſſee, to be offered to the higheſt bidder, in quarter ſections.

Proviſo.

directions of the register of the land office, and of the receiver of public monies, at the places, respectively, where the land offices are kept, that is to say; the lands in the districts of Chilicothe, on the first Monday of May; the lands in the district of Marietta, on the second Monday of May: the lands in the district of Zanesville, on the third Monday of May; the lands in the district of Steubenville, on the second Monday of June; and the lands in the district of Cincinnati, on the first Monday of September. The sales shall remain open at each place no longer than three weeks: the lands which may be thus sold, shall not be sold for less than two dollars per acre, and shall, in every other respect be sold on the same terms and conditions, as is provided for the sale of lands sold at private sale, and all the other public lands of the United States, either north of the Ohio, or south of the state of Tennessee, which are directed to be sold at public sale, shall be offered for sale, to the highest bidder, in quarter sections; *Provided however*, That section number twenty-six of the third township of the second fractional range, within the grant made by the United States to John C. Symmes, on which is erected a mill dam, is hereby granted to Joseph Vanhorne, the proprietor of the said dam; and also, that section, number twenty-nine, of the second township of the fourth entire range, be granted to James Sutton; and also, that section number twenty-one of the ninth township of the twenty-first range, be granted to Christian Van Gundy, on their payment of the purchase money, agreeably to the provisions made by law, for lands sold at private sale.

Public lands, after having been ſurveyed, to be divided by the

Sec. 13. *And be it further enacted*, That whenever any of the public lands shall have been surveyed in the manner directed by law, they shall be divided by the secretary of the treasury into conveni ent surveying districts, and a deputy surveyor shall, with the approbation of the said secretary, be appointed by the surveyor general for each district, who shall take an oath or affirmation truly and faithfully to perform the duties of his office: and whose duty it shall be to run and mark such lines as may be necessary, for subdividing the lands surveyed as aforesaid, into sections, half sections or quarter sections, as the case may be: to ascertain the true contents of such subdivisions; and to record in a book to be kept for that purpose, the surveys thus made. The surveyor general shall furnish each deputy surveyor with a copy of the plat of the townships and fractional parts of townships contained in his district, describing the subdivisions thereof, and the marks of the corners. Each deputy surveyor shall be entitled to receive from the purchaser of any tract of land, of which a line or lines shall have been run and marked by him, at the rate of three dollars for every mile thus surveyed and marked, before he shall deliver to him a copy of the plat of such tract, stating its contents. The fees payable by virtue of former laws for surveying expenses shall, after the first day of July next, be no longer demandable from and paid by the purchasers. And no final certificates shall thereafter be given by the register of any land office to the purchaser of any tract of land, all the lines of which shall not have been run, and the contents ascertained by the surveyor general or his assistants, unless such purchaser shall lodge with the said register a plat of such tract, certified by the district surveyor.

Secretary of the Treaſury, into ſurveying diſtricts, For each of which a deputy ſurveyor ſhall be appointed. His duties. The Surveyor General to furniſh the Deputies with copies of the plats and fractional parts of townſhips in their diſtricts: Fees of the Deputies.

Sec. 14. *And be it further enacted*, That from and after the first day of April next, each of the registers and receivers of public monies of the several land offices established by law, either north of the river Ohio, or south of the state of Tennessee, shall, in addition to the commission heretofore al-

Additional compenſation to the Regiſters and Receivers of public monies of the ſeveral land offices.

Certain fees heretofore payable diſcontinued.

Books of the officers of the land offices to be annually examined, and the balance in their hands aſcertained.

Fees heretofore demandable for patents no longer payable.

lowed, receive one-half per cent. on all the monies paid for public lands sold in their respective offices, and an annual salary of five hundred dollars, the register and receiver of the land office at Marietta excepted, the annual salary of whom shall be two hundred dollars. And from and after the same day the fees payable by virtue of former laws, to the registers of the several land offices, for the entry of lands and for certificates of monies paid, shall no longer be demandable from nor paid by the purchasers of public lands. And it shall be the duty of the secretary of the treasury to cause, at least once every year, the books, of the officers of the land offices to be examined, and the balance of public monies in the hands of the several receivers of public monies of the said offices, to be ascertained.[*]

Regiſters of the land offices to tranſmit the final certificates of purchaſers to the Regiſter of the Treaſury.

Poſtage to be paid by the purchaſers.

Regiſter of the Treaſury to tranſmit to the Regiſter of the proper land offices the patents.

Sec. 15. *And be it further enacted*, That from and after the first day of April next, the fees heretofore payable for patents for lands, shall no longer be paid by the purchasers. And it shall be the duty of every register of a land office on application of the party, to transmit, by mail, to the register of the treasury, the final certificate granted by such register to the purchaser of any tract of land sold at his office: and it shall be the duty of the register of the treasury, on receiving any such certificate, to obtain and transmit, by mail, to the register of the proper land office, the patent to which such purchaser is entitled; but in every such instance, the party shall previously pay to the proper deputy postmaster, the postage accruing on the transmission of such certificate and patent.

Preſident authoriſed to appoint Regiſters, &c. of the land offices:

Sec. 16. *And be it further enacted*, That the President of the United States shall have full power to appoint and commission the several registers and receivers of public monies of the land offices established by this act, in the recess of Congress;

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[*] But ſee ſection 3d of the next act.

and their commissions shall continue in force until the end of the session of Congress next ensuing such appointment.

Commiſſions to remain in force 'till the end of the next ſeſſion of Congreſs.

Sec. 17. *And be it further enacted*, That the several superintendants of the public sales directed by this act, shall receive six dollars each, for each day's attendance on the said sales.

Per diem allowance to ſuperintendants of ſales.

Sec. 18. *And be it further enacted*, That a sum not exceeding twenty thousand dollars, be and the same is hereby appropriated, for the purpose of carrying this act into effect; which sum shall be paid out of any unappropriated monies in the treasury.

Sum appropriated to carry this act into effect.

NATHL. MACON,
Speaker of the House of Representatives.
JESSE FRANKLIN,
President of the Senate, pro tempore.
March 26, 1804.
APPROVED,
TH: JEFFERSON.

AN ACT *further to amend an act, intituled "An act regulating the grants of land; and providing for the disposal of the lands of the United States, south of the State of Tennessee."*

BE *it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That persons who may have obtained, or shall obtain certificates from the board of commissioners appointed to ascertain the claims to lands in the Mississippi territory, shall be allowed three months after the respective date of such certificates, for entering the same with the register of the proper land office; and certificates, thus entered, shall have the same force and effect, as if they had been duly entered with the said register, on or

Perſons obtaining certificates from the board of comms. in the Miſſiſſippi territory, allowed a further time for entering them with the regiſters of the proper land offices.

before the first day of January, one thousand eight hundred and five.

Commrs. appointed to aſcertain the claims to land in the M. T eaſt of Pearl river, authoriſed to grant certificates for land in the iſland of Nannee Hubba; and perſons having claims in that iſland or eaſt of the Tombigbee, &c. permitted to file them before the 1ſt May, 1805.

Sec. 2. *And be it further enacted*, That the commissioners appointed to ascertain the claims to lands, in the above mentioned territory, east of Pearl river, shall be authorised to grant certificates for lands lying in the island known by the name of Nanne Hubba, formed by the cut off of the river Tombigbee and Alabamaha; and persons having claims for lands lying either in said island, or east of the Tombigbee and Alabamaha rivers, shall be permitted to file the same with the register of the land office, 'till the first day of May, one thousand eight hundred and five: and the commissioners shall decide on the same, in the same manner as if they had been presented before the thirty-first day of March, one thousand eight hundred and four.

Per diem allowances to the commrs. for their attendance after 1ſt April.

Sec. 3. *And be it further enacted*, That each of the last mentioned commissioners, shall be allowed at the rate of six dollars a day, for every day he shall attend, subsequent to the first day of April, one thousand eight hundred and five: *Provided*, That such additional allowance shall not exceed five hundred dollars for each commissioner.

Compenſation of the clerks of the boards of commrs.

Sec. 4. *And be it further enacted*, That the clerks of each of the boards of commissioners appointed to ascertain the claims to lands in the abovementioned territory, shall be allowed at the rate of seven hundred and fifty dollars a year, from the time when he entered on the duties of his office, to the time when the board shall adjourn sine die.

Claimants under Britiſh grants legally and fully completed, allowed a

Sec. 5. *And be it further enacted*, That persons claiming lands in the Mississippi territory, by virtue of British grants, legally and fully completed, who may not have filed their claims with the proper register of the land office, in conformity with the provisions heretofore made for that purpose, may until the first day of December, one thousand eight hundred and five, file such claims with the register of the land office west of Pearl river, and have the same recorded. And the said register shall on or before the first day of January, one thousand eight hundred and six, make to the secretary of the treasury, a full report of all the British grants thus recorded; which report shall immediately after be laid before Congress. The lands contained in such grants shall not be otherwise disposed of until the end of one year, after that time. And if any such person shall neglect to file such British grants, and to have the same recorded, in the manner and time hereby provided, neither such grant nor any other evidence of such claim, which shall not have been recorded as above directed, shall ever after be considered or admitted as evidence in any court of the United States, against any grant derived from the United States, or against any title, legally and fully executed, derived from the Spanish government;—any act or acts to the contrary notwithstanding.

further time for filing their claims with the regiſter of the land office, weſt of Pearl river. Regiſter to make report to the ſec'ry. of the Treaſury of the grants thus recorded; the report then to be laid before Congreſs. The lands included in the grants not to be diſpoſed of for one year. Grants not filed, &c. according to this act to be no bar to other grants properly derived from the Spaniſh or American governments.

NATHL. MACON,
Speaker of the House of Representatives.
A. BURR, *Vice-President of the United States, and President of the Senate.*
March 2, 1805.

APPROVED,
TH: JEFFERSON.

AN ACT *concerning the mode of surveying the Public Lands of the United States.*

BE *it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the surveyor-general shall

Mode of ſurveying the public lands north of the Ohio.

cause all those lands north of the river Ohio, which, by virtue of the act, entitled "An act providing for the sale of the lands of the United States, in the territory north-west of the river Ohio, and above the mouth of the Kentucky river," were subdivided, by running through the townships, parallel lines each way, at the end of every two miles, and by marking a corner on each of the said lines, at the end of every mile; to be subdivided into sections, by running straight lines from the mile corners thus marked, to the opposite corresponding corners, and by marking on each of the said lines, intermediate corners as nearly as possible equi-distant from the corners of the sections on the same. And the said surveyor-general shall also cause the boundaries of all the half sections, which had been purchased previous to the first day of July last, and on which the surveying fees had been paid, according to law, by the purchaser, to be surveyed and marked, by running straight lines from the half mile corners, heretofore marked, to the opposite corresponding corners; and intermediate corners shall, at the same time, be marked on each of the said dividing lines, as nearly as possible equi-distant from the corners of the half section on the same line: *Provided*, That the whole expence of surveying and marking the lines, shall not exceed three dollars for every mile which has not yet been surveyed, and which shall be actually run, surveyed, and marked by virtue of this section. And the expense of making the subdivisions, directed by this section, shall be defrayed out of the monies appropriated, or which may be hereafter appropriated, for completing the surveys of the public lands of the United States.

Proviſo.

How the expenſe of making the above ſurveys is to be paid.

Sec. 2. *And be it further enacted*, That the boundaries and contents of the several sections, half sections, and quarter sections of the public lands of

Principles upon which the boundaries and contents of the public lands are to be ascertained.

the United States, shall be ascertained in conformity with the following principles, any act or acts to the contrary notwithstanding:

1st. All the corners marked in the surveys, returned by the surveyor-general, or by the surveyor of the land south of the state of Tennessee, respectively, shall be established as the proper corners of sections, or subdivisions of sections, which they were intended to designate; and the corners of half and quarter sections, not marked on the said surveys, shall be placed as nearly as possible equi-distant from those two corners which stand on the same line.

2d. The boundary lines, actually run and marked in the surveys returned by the surveyor-general, or by the surveyor of the land south of the state of Tennessee, respectively, shall be established as the proper boundary lines of the sections, or subdivisions, for which they were intended, and the length of such lines, as returned by either of the surveyors aforesaid, shall be held and considered as the true length thereof. And the boundary lines, which shall not have been actually run, and marked as aforesaid, shall be ascertained, by running straight lines from the established corners to the opposite corresponding corners: but in those portions of the fractional townships, when no such opposite corresponding corners have been or can be fixed, the said boundary lines shall be ascertained, by running from the established corners, due north and south, or east and west lines, as the case may be, to the water course, or Indian boundary line, or other external boundary of such fractional township.

3d. Each section, or subdivision of section, the contents whereof shall have been, or by virtue of the first section of this act, shall be returned by the surveyor general, or by the surveyor of the public lands south of the state of Tennessee, respectively, shall be held and considered as containing the exact quantity, expressed in such return or returns; and the half sections and quarter sections, the contents whereof shall not have been thus returned, shall be held and considered as containing the one half, or the one fourth part respectively, of the returned contents of the section of which they make part.

Part of a former act repealed.

Sec. 3. *And be it further enacted*, That so much of the act entitled "An act making provision for the disposal of the lands in the Indiana territory, and for other purposes," as provides the mode of ascertaining the true contents of sections or subdivisions of sections, and prevents the issue of final certificates, unless the said contents shall have been ascertained, and a plot certified by the district surveyor, lodged with the register, be, and the same is hereby repealed.

NATHL. MACON,
Speaker of the House of Representatives.
A. BURR,
Vice-President of the United States,
and President of the Senate.
February 11, 1805.
APPROVED,
TH: JEFFERSON.

AN ACT *in addition to an act, intituled "An act regulating the Grants of Land, and providing for the disposal of the Lands of the United States, south of the State of Tennessee."*

BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That whenever any person who shall have received a pre-emption certificate;

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Perſons loſing their lands under pre-emption certificates entitled to others.

from either of the boards of commissioners, appointed for the purpose of ascertaining the rights of persons to lands in the Mississippi territory, shall, by a final judgment or decree of the highest court of law, or equity, in which a decision could be had, within the said territory, rendered in favor of another person claiming by virtue of a British patent, lose the whole or part of the tract of land to which he was entitled by virtue of such certificate, it shall be lawful for the receiver of public monies for the district where the land lies, to repay to such person or his assigns, so much of the purchase money as had been paid by him for the land thus recovered, by the holder of the British patent.

Interfering claims under Britiſh patents & certificates from the commiſſioners, how to be ſettled. Proviſo.

In all cases where only a part of a tract of land, to which any person may be entitled by virtue of a certificate granted by the commissioners aforesaid, is also claimed by the holder of a British patent, a patent may issue in favor of the owners of such certificate, for so much of such tract of land as is not claimed by virtue of such British patent; *Provided*, That he shall in every other respect have complied with the provisions of the acts of Congress, regulating the grants of land in the Mississippi territory. And the lands contained in British grants, which have been duly recorded in conformity with the provisions of former laws, and for which certificates have not been granted by the commissioners aforesaid, shall not be disposed of until otherwise directed by Congress.

Rights of pre emption, by what time to be paid for.

Sec. 2. *And be it further enacted*, That persons entitled to a right of pre-emption to lands in the Mississippi territory, by virtue of certificates granted by either of the boards of commissioners aforesaid, shall be allowed 'till the first day of January, one thousand eight hundred and seven, to make the first payment of the purchase money of such lands; And if any such person shall neglect to make such

Penalty of neglect of payment.

first payment, on or before the first day of January, one thousand eight hundred and seven, his right of pre-emption shall cease and become void.

Compenſation of commiſſioners.

Proviſo.

Regiſters & receivers of public monies to have diſcretionary powers with regard to certain locations, &c. &c.

Proviſo.

Sec. 3. *And be it further enacted*, That each of the commissioners appointed to ascertain the claims to lands in the above mentioned territory, west of Pearl river, shall be allowed at the rate of six dollars for every day he shall attend, subsequent to the first day of April, one thousand eight hundred and six: *Provided*, That such additional allowance shall not exceed five hundred dollars, for each commissioner; and the agent appointed in behalf of the United States for the said board shall be allowed an additional compensation of three hundred and fifty dollars for the whole of his services. And the register and receiver of public monies, in each of the districts of the above mentioned territory, shall, and they are hereby authorised, in their districts, respectively, and after the dissolution of the board of commissioners for their district, to regulate the location of any tract of land lying within such district, for which a certificate shall have been granted by the commissioners, whenever it shall appear that the location specified in such certificates, interfere with each other, or do not include the improvements, by virtue of which such certificates were granted: *Provided*, That the said register and receiver, shall not be authorised to allow any location on land not improved and settled, in the manner provided by the former acts of Congress, regulating the grants of land in the above mentioned territory; nor to allow, in any case, a greater quantity of land than had been allowed by the commissioners.

Regiſter and receiver of the diſtrict eaſt of Pearl

Sec. 4. *And be it further enacted*, That whenever it shall appear to the satisfaction of the register and receiver of the district, east of Pearl river, that the settlement and occupancy, by virtue of which a pre-emption certificate had been granted by the commissioners, had been made and taken place, prior to the thirtieth day of March, one thousand seven hundred and ninety-eight, they shall be authorised to grant to the party a donation certificate, in lieu of such pre-emption; and the patent shall issue as in other cases of donations; *Provided*, That application shall be made for such an exchange, and evidence produced of the date of such settlement and occupancy, on or before the thirty-first day of December next.

river authoriſed to grant donation certificates in certain caſes.

Proviſo.

Sec. 5. *And be it further enacted*, That the right of the United States, to all the land lying between the front street of the city of Natchez and the Mississippi river, and bounded on the north by north fourth street, and the land granted to Stephen Minor, and on the south, by the lands annexed to the old fort, and those granted to William Barland, be, and the same hereby is, forever vested in the corporation of said city, so as not to affect the legal or equitable claims of any individuals, or of any body politic, or corporate, if any such there be; *Provided*, That the said land, as above described, be neither cultivated nor occupied by buildings, but that it be planted with trees, and preserved as a common, for the use, comfort, and health of the inhabitants of the city aforesaid, and all other persons who may occasionally resort thither.

Right of the United States in land near and adjoining to Natchez veſted in the corporation of that city.

Proviſo.

Sec. 6. *And be it further enacted*, That whenever the section No. 16, shall fall upon land already granted, by virtue of any act of Congress, or claimed by virtue of a British grant, the secretary of the treasury shall locate another section, in lieu thereof, for the use of schools, which location shall be made in the same township, if there be any other vacant section therein, and otherwise, in an adjoining township.

Sec. No. 16, how to be located if it ſhall have fallen upon any land claimed by virtue of a Britiſh grant.

Sec. 7. *And be it further enacted*, That Richard

Where Richard Sparks' claim is to be entered:

Alſo thoſe of Richard S. Bryan and George Brewer, ſen.

Sparks be permitted to enter with the register of the land office, for the district west of Pearl river, his claim to three hundred and twenty acres of land, lying within said district; and that Richard S. Bryan, and George Brewer, senior, be permitted to enter with the register of the land office, for the district east of Pearl river, their certificate of a right of pre-emption for three hundred and twenty acres of land, lying within the district last mentioned: And such entry of the claim of the said Richard Sparks shall have the same effect, as if it had been made prior to the first day of December, one thousand eight hundred and four, and such entry of the certificate of the said Richard S. Bryan and George Brewer, senior, shall have the same effect as if it had been made within three months from the time it was issued.

NATHL. MACON,
Speaker of the House of Representatives.
S. SMITH,
President of the Senate, pro tempore.
April 21, 1806.
APPROVED,
TH: JEFFERSON.

AN ACT *to prevent Settlements being made on Lands ceded to the United States, until authorized by law.*

BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That if any person or persons shall, after the passing of this act, take possession of, or make a settlement on any lands ceded or secured to the United States, by any treaty made with a foreign nation, or by a cession from any

Perſons ſetling on public lands, to forfeit all claim thereto.

state to the United States, which lands ſhall not have been previously sold, ceded, or leased by the United States, or the claim to which lands, by such person or persons, shall not have been previously recognized and confirmed by the United States; or if any person or persons shall cause such lands to be thus occupied, taken possession of, or settled; or shall survey or attempt to survey, or to be surveyed, any such lands; or designate any boundaries thereon, by marking trees, or otherwise, until thereto duly authorised by law; such offender or offenders shall forfeit all his or their right, title and claim, if any he hath, or they have, of whatsoever nature or kind the same shall or may be, to the land aforesaid, which he or they shall have taken possession of, or settled, or which he or they shall have surveyed or attempt to survey, or cause to be surveyed, or the boundaries thereof he or they shall have designated, or cause to be designated, by marking or otherwise. And it shall moreover be lawful for the President of the United States, to direct the marshal, or officer acting as marshal, in the manner hereinafter directed, and also to take such military forces as he may judge necessary and proper, to remove from lands ceded, or secured to the United States, by treaty, or cession as aforesaid, any person or persons who shall hereafter take possession of the same, or make or attempt to make a settlement thereon, until thereunto authorised by law. And every right, title or claim, forfeited under this act, shall be taken and deemed to be vested in the United States, without any other or further proceeding: *Provided*, That nothing herein contained shall be construed to affect the right, title or claim of any person to lands in the territories of Orleans or Louisiana, before the boards of commissioners established by the act, entitled "An act for ascertaining and adjusting the

Mode of expulſion.

Proviſo.

titles and claims to land within the territory of Orleans and the district of Louisiana," shall have made their reports and the decision of Congress been had thereon.

Perſons ſettled on public lands, before the paſſing of this act, how to obtain permiſſion to remain.

Sec. 2. *And be it further enacted*, That any person or persons who, before the passing of this act, had taken possession of, occupied, or made settlement on land ceded or secured to the United States, by any treaty made with a foreign nation, or by cession from any state to the United States, which lands had not been previously sold, ceded or leased, by the United States, or the claim to which lands had not been previously recognized and confirmed by the United States; and who at the time of passing this act does or do actually inhabit and reside on such lands, may at any time prior to the first day of January next, apply to the proper register or recorder, as the case may be, of the land office established for the disposal, registering or recording of such lands, or to such person or persons as may by such registers or recorders respectively be appointed, for the purpose of receiving such applications, stating the tract or tracts of land thus occupied, settled and inhabited by such applicant or applicants, and requesting permission to continue thereon: and it shall thereupon be lawful for such register or recorder respectively, to permit, in conformity with such instructions as may be given by the Secretary of the Treasury, with the approbation of the President of the United States, for that purpose, such applicant or applicants to remain on such tract or tracts of land, not exceeding three hundred and twenty acres for each applicant, as tenant at will, on such terms and conditions as shall prevent any waste or damages on such lands, and on the express condition that such applicant or applicants shall, whenever such tract or tracts of land may be sold or ceded by the United States, or whenever for any other cause he or they may be required under the authority of the United States so to do, give quiet possession of such tract or tracts of land, to the purchaser or purchasers, or remove altogether from the land, as the case may be: *Provided however*, That such permission shall not be granted to any such applicant, unless he shall previously sign a declaration stating that he does not lay any claim to such tract or tracts of land, and that he does not occupy the same by virtue of any claim or pretended claim derived or pretended to be derived from any other person or persons: *And provided also*, That in all cases where the tract of land applied for, includes either a lead mine or salt spring, no permission to work the same shall be granted without the approbation of the President of the United States, who is hereby authorised to cause such mines or springs to be leased for a term not exceeding three years, and on such conditions as he shall think proper.

Proviſo.

Regiſters to file applications, &c.

Sec. 3. *And be it further enacted*, That all the applications and provisions granted by virtue of the last preceding section, shall be duly entered on books to be kept for that purpose by the registers and recorders aforesaid respectively; and they shall be entitled to receive from the party for each application, fifty cents, and for each permission one dollar.

Their fees.

Preſident may remove perſons ſettled before the paſſing of this act.

Sec. 4. *And be it further enacted*, That it shall be lawful after the first day of January next, for the proper marshal or officer acting as marshal, under such instructions as may for that purpose be given by the President of the United States, to remove from the lands aforesaid, any, and every person or persons, as aforesaid; who were settled on such lands prior to the passing of this act. And every such person, who shall at any time after the expiration of three months after such notice shall have been given, be found on any part of the lands aforesaid, shall moreover incur a penalty of one hundred dollars to be recovered in any court having jurisdiction of the same, and be moreover liable, on conviction to imprisonment, at the discretion of the court, not exceeding six months; and the certificate of the proper register, or recorder shall be sufficient evidence that the tract of land which was occupied by the offender had not been previously sold, leased, or ceded by the United States; that the claim to such tract had not been recognized and confirmed by the United States; and the person occupying the same and removed or to be removed, by the marshal, had not obtained permission to remain thereon in conformity with the provisions of this act: *Provided always, and it is further enacted,* That nothing in this section contained shall be construed to apply to any person claiming lands in the territories of Orleans or Louisiana, whose claim shall have been filed with the proper commissioners before the first day of January next.

Penalty for failing to remove.

Proviſo.

NATHL. MACON,
Speaker of the House of Representatives.
S. SMITH, *President of the Senate, pro tempore.*

March 3, 1807.

APPROVED,
TH: JEFFERSON.

AN ACT *making appropriations for carrying into effect a Treaty between the United States and the Chickasaw tribe of Indians; and to establish a Land Office in the Mississippi Territory.*

BE *it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That for the purpose of carrying

Appropriation.

into effect a treaty, made on the twenty-third day of July, one thousand eight hundred and five, between the United States and the Chickasaw nation of Indians, the following sums to be paid out of any monies in the treasury not otherwise appropriated, be, and the same hereby are appropriated, in conformity with the stipulations contained in the said treaty, that is to say; to the said Chickasaw nation, twenty thousand dollars; to George Colbert and O'Koyeah one thousand dollars; and to Chinubbe Mingo, chief of the nation, an annuity of one hundred dollars, during his natural life.

Surveyor-General to ſurvey the lands ceded.

Sec 2. *And be it further enacted*, That it shall be the duty of the Surveyor-General of the public lands, south of Tennessee, to cause to be surveyed and laid out, in the same manner as is provided by law for the other public lands in the Mississippi territory, so much of the lands ceded to the United States by the Cherokees and Chickasaws, as lies within the said territory; and the President of the United States is hereby authorised, whenever he shall think it proper, to establish a land office for the sale of the said lands, and to appoint a register of the same, and a receiver of the public monies accruing from the sale of the said lands, whose respective emoluments and duties shall be the same as those of the registers and receivers of the other land offices in the said territory.

Preſident to eſtabliſh a land office, and appoint officers.

NATHL. MACON,
Speaker of the House of Representatives.

S. SMITH,
President of the Senate, pro tempore.

March 3, 1807.
APPROVED,
TH: JEFFERSON.

The 8th section of

AN ACT *confirming claims to land in the district of Vincennes; and for other purposes.*

(Paſſed at the Seſſion of 1806—7.)

Sec. 8. *And be it further enacted*, That persons entitled to a right of pre-emption to lands in the Mississippi territory, shall be allowed 'till the first day of January next, to make the first payment of the purchase money of such lands.

PART IV.

LAWS RELATING TO CRIMES AND MISDEMEANORS.

An Act *for the punishment of certain Crimes against the United States.*

Treaſon, what caſes ſhall be judged, how proved and puniſhed ;

Sec. 1. *BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That if any person or persons, owing allegiance to the United States of America, shall levy war against them, or shall adhere to their enemies, giving them aid and comfort within the United States or elsewhere, and shall be thereof convicted, on confession in open court, or on the testimony of two witnesses to the same overt act of the treason whereof he or they shall stand indicted, such person or persons shall be adjudged guilty of treason against the United States, and shall suffer death.

alſo of miſpriſion of treaſon.

Sec. 2. *And be it enacted,* That if any person or persons, having knowledge of the commission of any of the treasons aforesaid, shall conceal and not as soon as may be disclose and make known the same to the President of the United States, or some one of the judges thereof, or to the President or Governor of a particular state, or some one of the judges or justices thereof, such person or persons on conviction shall be adjudged guilty of misprision of treason, and shall be imprisoned not exceeding seven years, and fined not exceeding one thousand dollars.

Murder in a fort, arſenal,

Sec. 3. *And be it enacted,* That if any person or persons shall, within any fort, arsenal, dock-yard, magazine, or in any other place or district of

&c. puniſhed with death;

country, under the sole and exclusive jurisdiction of the United States, commit the crime of wilful murder, such person or persons on being thereof convicted, shall suffer death.

and court may order offender's body to be diſſected.

Sec. 4. *And be it also enacted*, That the court before whom any person shall be convicted of the crime of murder, for which he or she shall be sentenced to suffer death, may at their discretion, add to the judgment, that the body of such offender shall be delivered to a surgeon for dissection; and the marshal who is to cause such sentence to be executed, shall accordingly deliver the body of such offender, after execution done, to such surgeon as the court shall direct, for the purpose aforesaid: *Provided*, That such surgeon, or some other person by him appointed for the purpose, shall attend to receive and take away the dead body at the time of the execution of such offender.

Reſcue of a body ordered for diſſection, puniſhment for.

Sec. 5. *And be it further enacted*, That if any person or persons shall, after such execution had, by force rescue or attempt to rescue the body of such offender out of the custody of the marshal or his officers, during the conveyance of such body to any place for dissection as aforesaid; or shall by force rescue or attempt to rescue such body from the house of any surgeon, where the same shall have been deposited, in pursuance of this act; every person so offending, shall be liable to a fine not exceeding one hundred dollars, and an imprisonment not exceeding twelve months.

Miſpriſion of felony, what caſes ſhall be judged, and how puniſhed.

Sec. 6. *And be it enacted*, That if any person or persons having knowledge of the actual commission of the crime of wilful murder or other felony, upon the high seas, or within any fort, arsenal, dock-yard, magazine, or other place or district of country, under the sole and exclusive jurisdiction of the United States, shall conceal, and not as soon as may be disclose and make known the same to some one of the judges or other persons in civil or military authority under the United States, on conviction thereof, such person or persons shall be adjudged guilty of misprision of felony, and shall be imprisoned not exceeding three years, and fined not exceeding five hundred dollars.

Manſlaughter in a fort, &c. how puniſhed.

Sec. 7. *And be it enacted*, That if any person or persons shall within any fort, arsenal, dock-yard, magazine, or other place or district of country, under the sole and exclusive jurisdiction of the United States, commit the crime of man-slaughter, and shall be thereof convicted, such person or persons shall be imprisoned not exceeding three years, and fined not exceeding one thousand dollars.

Piracy and felony, what caſes ſhall be judged, where tried and how puniſhed.

Sec. 8. *And be it enacted*, That if any person or persons shall commit upon the high seas, or in any river, haven, bason or bay, out of the jurisdiction of any particular state, murder or robbery, or any other offence which if committed within the body of a county, would by the laws of the United States be punishable with death; or if any captain or mariner of any ship or other vessel, shall piratically and feloniously run away with such ship or vessel, or any goods or merchandize to the value of fifty dollars, or yield up such ship or vessel voluntarily to any pirate; or if any seaman shall lay violent hands upon his commander, thereby to hinder and prevent his fighting in defence of his ship or goods committed to his trust, or shall make a revolt in the ship; every such offender shall be deemed, taken and adjudged to be a pirate and felon, and being thereof convicted, shall suffer death: and the trial of crimes committed on the high seas, or in any place out of the jurisdiction of any particular state, shall be in the district where the offender is apprehended, or into which he may first be brought.

Sec. 9. *And be it enacted*, That if any citizen shall commit any piracy or robbery aforesaid, or any act of hostility against the United States, or any citizen thereof, upon the high sea, under color of any commission from any foreign prince, or state, or on pretence of authority from any person, such offender shall, notwithstanding the pretence of any such authority, be deemed, adjudged and taken to be a pirate, felon, and robber, and on being thereof convicted, shall suffer death.

Acceſſaries therein, how puniſhed.

Sec. 10. *And be it enacted,* That every person who shall, either upon the land or the seas, knowingly and wittingly aid and assist, procure, command, counsel, or advise any person or persons, to do or commit any murder or robbery, or other piracy aforesaid, upon the seas, which shall affect the life of such person, and such person or persons shall thereupon do or commit any such piracy, or robbery, then all and every such person so as aforesaid aiding, assisting, procuring commanding, counselling or advising the same, either upon the land or the sea, shall be, and they are hereby declared, deemed and adjudged to be accessary to such piracies before the fact, and every such person being thereof convicted shall suffer death.

Sec. 11. *And be it enacted,* That after any murder, felony, robbery, or other piracy whatsoever aforesaid, is or shall be committed by any pirate or robber, every person who knowing that such pirate or robber has done or committed any such piracy or robbery, shall on the land or at sea receive, entertain or conceal any such pirate or robber, or receive or take into his custody any ship, vessel, goods, or chattels, which have been by any such pirate or robber, piratically and feloniously taken, shall be, and are hereby declared, deemed and adjudged to be accessary to such piracy or robbery, after the fact; and on conviction thereof, shall be imprisoned not exceeding three years, and fined not exceeding five hundred dollars.

Confederacy to become piratee, how punished.

Sec. 12. *And be it enacted*, That if any seaman or other person shall commit manslaughter upon the high seas, or confederate or attempt or endeavor to corrupt any commander, master, officer or mariner, to yield up or to runaway with any ship or vessel, or with any goods, wares, or merchandize, or to turn pirate, or to go over to or confederate with pirates, or in any wise trade with any pirate knowing him to be such, or shall furnish such pirate with any ammunition, stores or provisions of any kind, or shall fit out any vessel knowingly, and with a design to trade with or supply or correspond with any pirate or robber upon the seas; or if any person or persons shall any ways consult, combine, confederate or correspond with any pirate or robber on the seas, knowing him to be guilty of any such piracy or robbery; or if any seaman shall confine the master of any ship or other vessel, or endeavor to make a revolt in such ship: such person or persons so offending, and being thereof convicted, shall be imprisoned not exceeding three years, and fined not exceeding one thousand dollars.

Maiming, what caſes ſhall be judged, and how puniſhed.

Sec. 13. *And be it enacted*, That if any person or persons within any of the places upon the land under the sole and exclusive jurisdiction of the United States, or upon the high seas, in any vessel belonging to the United States, or to any citizen or citizens thereof, on purpose and of malice aforethought, shall unlawfully cut off the ear or ears, or cut out or disable the tongue, put out an eye, or slit the nose, cut off the nose or lip, or cut off or disable any limb or member of any person, with intention in so doing to maim or disfigure such person in any the manners before mentioned, then and in every such case the person or persons so offending, their counsellors, aiders and abettors (knowing of and privy to the offence aforesaid) shall on conviction, be imprisoned not exceeding seven years, and fined not exceeding one thousand dollars.

Forgery, what caſes ſhall be judged, and how puniſhed.

Sec. 14. *And be it enacted*, That if any person or persons shall falsely make, alter, forge or counterfeit, or cause or procure to be falsely made, altered, forged, or counterfeited, or willingly act or assist in the false making, altering, forging or counterfeiting any certificate, indent, or other public security of the United States, or shall utter, put off, or offer, or cause to be uttered, put off or offered in payment or for sale any such false, forged, altered or counterfeited certificate, indent or other public security, with intention to defraud any person, knowing the same to be false, altered, forged or counterfeited, and shall be thereof convicted, every such person shall suffer death.

Stealing or falſifying any record, &c. how puniſhed.

Sec. 15. *And be it enacted*, That if any person shall feloniously steal, take away, alter, falsify, or otherwise avoid any record, writ, process, or other proceedings in any of the courts of the United States, by means whereof any judgment shall be reversed, made void, or not take effect, or if any person shall acknowledge or procure to be acknowledged in any of the courts aforesaid, any recognizance, bail or judgment, in the name or names of any other person or persons not privy or consenting to the same, every such person or persons on conviction thereof, shall be fined not exceeding five thousand dollars, or be imprisoned not exceeding seven years, and whipped not exceeding thirty-nine stripes. *Provided nevertheless*, That this act shall not extend to the acknowledgement of any judgment or judgments by any attorney or attornies, duly admitted for any person or persons against whom any such judgment or judgments shall be had or given.

Exceptions.

Larceny, what caſes ſhall be judged, and how puniſhed.

Sec. 16. *And be it enacted*, That if any person within any of the places under the sole and exclusive jurisdiction of the United States, or upon the high seas, shall take and carry away, with an intent to steal or purloin the personal goods of another; or if any person or persons, having at any time hereafter the charge or custody of any arms, ordnance, munition, shot, powder, or habiliments of war belonging to the United States, or of any victuals provided for the victualing of any soldiers, gunners, marines, or pioneers, shall for any lucre or gain, or wittingly, advisedly, and of purpose to hinder or impede the service of the United States, embezzle, purloin or convey away any of the said arms, ordnance, munition, shot or powder, habiliments of war, or victuals, that then and in every of the cases aforesaid, the person or persons so offending, their counsellors, aiders and abettors (knowing of and privy to the offences aforesaid) shall, on conviction, be fined not exceeding the fourfold value of the property so stolen, embezzled or purloined; the one moiety to be paid to the owner of the goods, or the United States, as the case may be, and the other moiety to the informer and prosecutor, and be publicly whipped, not exceeding thirty-nine stripes.

Receivers of ſtolen goods &c. how puniſhed.

Sec. 17. *And be it further enacted*, That if any person or persons within any part of the jurisdiction of the United States as aforesaid, shall receive or buy any goods or chattels that shall be feloniously taken or stolen from any other person, knowing the same to be stolen, or shall receive, harbour or conceal any felons or thieves, knowing them to be so, he or they being of either of the said offences legally convicted, shall be liable to the like punishments as in the case of larceny before are prescribed.

Sec. 18. *And be it enacted*, That if any person

Perjury how puniſhed.

shall wilfully and corruptly commit perjury, or shall by any means procure any person to commit corrupt and wilful perjury, on his or her oath or affirmation in any suit, controversy, matter or cause depending in any of the courts of the United-States, or in any deposition taken pursuant to the laws of the United States, every person so offending, and being thereof convicted, shall be imprisoned not exceeding three years, and fined not exceeding eight hundred dollars; and shall stand in the pillory for one hour, and be thereafter rendered incapable of giving testimony in any of the courts of the United States, until such time as the judgment so given against the said offender shall be reversed.

In proſecutions for perjury, ſhall be ſufficient to ſet forth ſubſtance of the charge;

Sec. 19. *And be it enacted*, That in every presentment or indictment to be prosecuted against any person for wilful and corrupt perjury, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what court, or before whom the oath or affirmation was taken, (averring such court, or person or persons to have a competent authority to administer the same) together with the proper averment or averments to falsify the matter or matters wherein the perjury or perjuries is or are assigned; without setting forth the bill, answer, information, indictment, declaration, or any part of any record or proceeding, either in law or equity, other than as aforesiad, and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed.

alſo in proſecutions for ſubornation of perjury.

Sec. 20. *And be it further enacted*, That in every presentment or indictment for subornation of perjury, or for corrupt bargaining or contracting with others to commit wilful and corrupt perjury, it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth the bill, answer, information, indictment, declaration, or any part of any record or proceeding, either in law or equity, and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed, or was agreed or promised to be committed.

Bribery, what caſes ſhall be judged, and how puniſhed.

Sec. 21. *And be it enacted*, That if any person shall, directly or indirectly, give any sum or sums of money, or any other bribe, present or reward, or any promise, contract, obligation or security, for the payment or delivery of any money, present or reward, or any other thing to obtain or procure the opinion, judgment or decree of any judge or judges of the United States, in any suit, controversy, matter or cause depending before him or them, and shall be thereof convicted, such person or persons so giving, promising, contracting or securing to be given, paid or delivered, any sum or sums of money, present, reward or other bribe as aforesaid, and the judge or judges who shall in any wise accept or receive the same, on conviction thereof shall be fined and imprisoned at the discretion of the court; and shall forever be disqualified to hold any office of honor, trust or profit under the United States.

Perſons obſtructing the execution of proceſs, how puniſhed.

Sec. 22. *And be it enacted*, That if any person or persons shall knowingly and wilfully obstruct, resist or oppose any officer of the United States, in serving or attempting to serve or execute any mesne process, or warrant, or any rule or order of any of the courts of the United States, or any other legal or judicial writ or process whatsoever, or shall assault, beat or wound any officer, or other person duly authorised in serving or executing any writ, rule, order, process or warrant aforesaid, every person so knowingly and wilfully offending in the premises, shall, on conviction thereof, be imprisoned not exceeding twelve months, and fined not exceeding three hundred dollars.

Reſcue of perſons convicted, or before conviction, how puniſhed.

Sec. 23. *And be it further enacted*, That if any person or persons, shall by force set at liberty, or rescue any person who shall be found guilty of treason, murder, or any other capital crime, or rescue any person convicted of any of the said crimes, going to execution, or during execution, every person so offending, and being thereof convicted, shall suffer death: And if any person shall by force set at liberty, or rescue any person who before conviction shall stand committed for any of the capital offences aforesaid; or if any person or persons shall by force set at liberty, or rescue any person committed for or convicted of any other offence against the United States, every person so offending, shall, on conviction, be fined not exceeding five hundred dollars, and imprisoned not exceeding one year.

No conviction to work corruption of blood, or forfeiture of eſtate.

Sec. 24. *Provided always, and be it enacted*, That no conviction or judgment for any of the offences aforesaid, shall work corruption of blood, or any forfeiture of estate.

Proceſs ſued in any court of the U. S. or of a particular ſtate, againſt a foreign miniſter, void; and

Sec. 25. *And be it enacted*, That if any writ or process shall at any time hereafter be sued forth or prosecuted by any person or persons, in any of the courts of the United States, or in any of the courts of a particular state, or by any judge or justice therein respectively, whereby the person of any ambassador or other public minister of any foreign prince or state, authorised and received as such by the President of the United States, or any domestic or domestic servant of any such ambassador or other public minister, may be arrested or imprisoned, or his or their goods or chattels be distrained, seized or attached, such writ or process shall be deemed and adjudged to be utterly null and void to all intents, construction and purposes whatsoever.

perſons ſuing the ſame,

Sec. 26. *And be it enacted*, That in case any person or persons shall sue forth or prosecute any such writ or process, such person or persons, and all attornies or solicitors prosecuting or soliciting in such case, and all officers executing any such writ or process, being thereof convicted, shall be deemed violaters of the laws of nations, and disturbers of the public repose, and imprisoned not exceeding three years, and fined at the discretion of the court.

how puniſhed.

Sec. 27. *Provided nevertheless*, That no citizen or inhabitant of the United States, who shall have contracted debts prior to his entering into the service of any ambassador or other public minister, which debts shall be still due and unpaid, shall have, take or receive any benefit of this act; nor shall any person be proceeded against by virtue of this act, for having arrested or sued any other domestic servant of any ambassador or other public minister, unless the name of such servant be first registered in the office of the Secretary of State, and by such Secretary transmitted to the marshal of the district in which Congress shall reside, who shall upon recept thereof affix the same in some public place in his office, whereto all persons may resort and take copies without fee or reward.

Certain caſes excepted.

Sec. 28. *And be it enacted*, That if any person shall violate any safe-conduct or passport duly obtained and issued under the authority of the United States, or shall assault, strike, wound, imprison, or in any other manner infract the law of nations, by offering violence to the person of an ambassador or other public minister, such person so offending, on conviction, shall be imprisoned not exceeding three years, and fined at the discretion of the court.

Violation of a ſafe conduct, or to the perſon of public miniſter, how puniſhed.

Sec. 29. *And be it enacted*, That any person who shall be accused and indicted of treason, shall have a copy of the indictment, and a list of the jury and witnesses, to be produced on the trial for proving the said indictment, mentioning the names and places of abode of such witnesses and

In caſes of treaſon, priſoner ſhall have copy of indictment, liſt of the jury and witneſſes, &c.

In other capital caſes, copy of indictment and liſt of the jury; alſo be allowed counſel,

and proceſs to compel the attendance of witneſſes.

jurors, delivered unto him at least three entire days before he shall be tried for the same; and in other capital offences, shall have such copy of the indictment and list of the jury two entire days at least before the trial; And that every person so accused and indicted for any of the crimes aforesaid, shall also be allowed and admitted to make his full defence by counsel learned in the law; and the court before whom such person shall be tried, or some judge thereof, shall, and they are hereby authorised and required immediately upon his request, to assign to such person such counsel, not exceeding two, as such person shall desire, to whom such counsel shall have free access at all seasonable hours; and every such person or persons accused or indicted of the crimes aforesaid, shall be allowed and admitted in his said defence to make any proof that he or they can produce, by lawful witness or witnesses, and shall have the like process of the court where he or they shall be tried, to compel his or their witnesses to appear at his or their trial, as is usually granted to compel witnesses to appear on the prosecution against them.

In caſes of treaſon or other capital offence, priſoner ſtanding mute,

how to be proceeded againſt.

Sec. 30. *And be it further enacted*, That if any person or persons be indicted of treason against the United States, and shall stand mute or refuse to plead, or shall challenge peremptorily above the number of thirty-five of the jury: or if any person or persons be indicted of any other of the offences herein before set forth, for which the punishment is declared to be death, if he or they shall also stand mute or will not answer to the indictment, or challenge peremptorily above the number of twenty persons of the jury; the court in any of the cases aforesaid, shall notwithstanding proceed to the trial of the person or persons so standing mute or challenging, as if he or they had pleaded not guilty, and render judgment thereon accordingly.

Sec. 31. *And be it further enacted,* That the benefit of clergy shall not be used or allowed, upon conviction of any crime, for which, by any statute of the United States, the punishment is or shall be declared to be death.

No benefit of clergy in caſes where the puniſhment is death.

Sec. 32. *And be it further enacted,* That no person or persons shall be prosecuted, tried or punished for treason or other capital offence aforesaid, wilful murder or forgery excepted, unless the indictment for the same shall be found by a grand jury within three years next after the treason or capital offence aforesaid shall be done or committed; nor shall any person be prosecuted, tried or punished for any offence not capital, nor for any fine or forfeiture under any penal statute, unless the indictment or information for the same shall be found or instituted within two years from the time of committing the offence, or incurring the fine or forfeiture aforesaid: *Provided,* That nothing herein contained shall extend to any person or persons fleeing from justice.

No proſecution or puniſhment for treaſon or other capital offence unleſs indictment be found within 3 years, nor in other caſes unleſs within 2 years; except the offender flee.

Sec. 33. *And be further it enacted,* That the manner of inflicting the punishment of death, shall be by hanging the person convicted by the neck until dead.

Puniſhment of death to be by hanging.

FREDERICK A. MUHLENBERG,
Speaker of the House of Representatives,
JOHN ADAMS, *Vice-President of the United States, and President of the Senate.*

APPROVED, April the 30th, 1790:
GEORGE WASHINGTON, *President of the United States.*

AN ACT *respecting Fugitives from Justice, and Persons escaping from the Service of their Masters.*

Fugitives from juſtice, how to be apprehended and ſecured.

Sec. 1. *BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That whenever the executive authority of any state in the Union, or of either of the territories north-west or south of the river Ohio, shall demand any person as a fugitive from justice, of the executive authority of any such state or territory to which such person shall have fled, and shall moreover produce the copy of an indictment found, or an affidavit made before a magistrate of any state or territory as aforesaid, charging the person so demanded, with having committed treason, felony or other crime, certified as authentic by the governor or chief magistrate of the state or territory from whence the person so charged, fled, it shall be the duty of the executive authority of the state or territory to which such person shall have fled, to cause him or her to be arrested and secured, and notice of the arrest to be given to the executive authority making such demand, or to the agent of such authority appointed to receive the fugitive, and to cause the fugitive to be delivered to such agent when he shall appear: But if no such agent shall appear within six months from the time of the arrest, the prisoner may be discharged. And all costs or expences incurred in the apprehending, securing, and transmitting such fugitive to the state or territory making such demand, shall be paid by such state or territory.

Penalty on perſons reſcuing them.

Sec. 2. *And be it further enacted*, That any agent appointed as aforesaid, who shall receive the fugitive into his custody, shall be empowered to transport him or her to the state or territory from which he or she shall have fled. And if any person or persons shall by force set at liberty, or rescue the fugitive from such agent while transporting, as aforesaid, the person or persons so offending, shall, on conviction be fined not exceeding five hundred dollars and be imprisoned not exceeding one year.

Proceedings to be had on eſcape of perſons held to labor.

Sec. 3. *And be it also enacted*, That when a person held to labor in any of the United States, or in either of the territories on the north-west or south of river Ohio, under the laws thereof, shall escape into any other of the said states or territories, the person to whom such labor or service may be due, his agent or attorney, is hereby empowered to seize or arrest such fugitive from labor, and to take him or her before any judge of the circuit or district courts of the United States, residing or being within the state, or before any magistrate of a county, city or town corporate, wherein such seizure or arrest shall be made, and upon proof to the satisfaction of such judge or magistrate, either by oral testimony or affidavit taken before and certified by a magistrate of any such state or territory that the person so seized or arrested, doth under the laws of the state or territory from which he or she fled, owe service or labor to the person claiming him or her, it shall be the duty of such judge or magistrate to give a certificate thereof to such claimant, his agent or attorney, which shall be sufficient warrant for removing the said fugitive from labour, to the state or territory from which he or she fled.

Penalty on obſtructing claimants of fugitives from labor.

Sec. 4. *And be it further enacted*; That any person who shall knowingly and willingly obstruct or hinder such claimant, his agent or attorney in so seizing or arresting such fugitive from labor, or shall rescue such fugitive from such claimant, his agent or attorney when so arrested pursuant to the authority herein given or declared; or shall harbour or conceal such person after notice that he or she was a fugitive from labor, as aforesaid, shall, for either of the said offences, forfeit and pay the sum of five hundred dollars. Which penalty may be recovered by and for the benefit of such claimant, by action of debt, in any court proper to try the same; saving moreover to the person claiming such labor or service, his right of action for or on account of the said injuries or either of them.

JONATHAN TRUMBULL,
Speaker of the House of Representatives.
JOHN ADAMS, *Vice-President of the United States, and President of the Senate.*

APPROVED, February twelfth, 1793:
GEORGE WASHINGTON, *President of the United States.*

AN ACT *in addition to the Act for the punishment of certain Crimes against the United States.**

Puniſhment on perſons accepting certain commiſſions.

Sec. 1. *BE it enacted and declared by the Senate and House of Representatives of the United States of America, in Congress assembled,* That if any citizen of the United States shall, within the territory or jurisdiction of the same, accept and exercise a commission to serve a foreign prince or state in war, by land or sea, the person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not more than two thousand dollars, and shall be imprisoned not exceeding three years.

On enliſting, &c, to go beyond juriſdiction of U. S.

Sec. 2. *And be it further enacted and declared,* That if any person shall within the territory or jurisdiction of the United States, enlist or enter himself, or hire or retain another person to enlist or enter himself, or to go beyond the limits or jurisdiction of the United States, with intent to be enlisted or entered in the service of any foreign prince or state as a soldier, or as a marine or seaman on board of any vessel of war, letter of marque or privateer, every person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not exceeding one thousand dollars, and be imprisoned not exceeding three years. *Provided*, That this shall not be construed to extend to any subject or citizen of a foreign prince or state, who shall transiently be within the United States, and shall, on board of any vessel of war, letter of marque or privateer, which, at the time of its arrival within the United States, was fitted and equipped as such, enlist or enter himself, or hire or retain another subject or citizen of the same foreign prince or state, who is transiently within the United States, to enlist or enter himself to serve such prince or state on board such vessel of war, letter of marque or privateer, if the United States shall then be at peace with such prince or state. *And provided further*, That if any person so enlisted, shall, within thirty days after such enlistment, voluntarily discover, upon oath, to some justice of the peace, or other civil magistrate, the person or persons by whom he was so enlisted, so as that he or they may be apprehended and convicted of the said offence; such person so discovering the offender or offenders, shall be indemnified from the penalty prescribed by this act.

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* This act was continued without limitation of time, by an act paſſed on the 24th day of April, 1800.

Proviſo.

Puniſhment on fiting out ſhips of war, or iſſuing certain commiſſions.

Sec. 3. *And be it further enacted and declared*, That if any person shall, within any of the ports, harbours, bays, rivers, or other waters of the United States, fit out and arm, or attempt to fit out and arm, or procure to be fitted out and armed, or shall knowingly be concerned in the furnishing, fitting out or arming of any ship or vessel, with intenthat such ship or vessel shall be employed in the service of any foreign prince or state, to cruise or commit hostilities upon the subjects, citizens or property of another foreign prince or state, with whom the United States are at peace, or shall issue or deliver a commission within the territory or jurisdiction of the United States, for any ship or vessel, to the intent that she may be employed as aforesaid, every such person, so offending, shall, upon conviction, be adjudged guilty of a high misdemeanor, and shall be fined and imprisoned at the discretion of the court in which the conviction shall be had, so as the fine to be imposed shall in no case be more than five thousand dollars, and the term of imprisonment shall not exceed three years, and every such ship or vessel, with her tackle, apparel and furniture, together with all materials, arms, ammunition and stores, which may have been procured for the building and equipment thereof, shall be forfeited, one half to the use of any person who shall give information of the offence, and the other half to the use of the United States.

On increaſing or augmenting force of any ſhip. &c.

Sec. 4. *And be it further enacted and declared*, That if any person shall within the territory or jurisdiction of the United States, encrease or augment, or procure to be encreased or augmented, or shall be knowingly concerned in encreasing or augmenting the force of any ship of war, cruiser or other armed vessel which at the time of her arrival within the United States, was a ship of war, cruiser or armed vessel in the service of a foreign prince or state, or belonging to the subjects or citizens of such prince or state, the same being at war with another foreign prince or state with whom the United States are at peace, by adding to the number or size of the guns of such vessel prepared for use, or by the addition thereto of any equipment solely applicable to war, every such person so offending shall, upon conviction, be adjudged guilty of a misdemeanor, and shall be fined and imprisoned at the discretion of the court, in which the conviction shall be had, so as that such fine shall not exceed one thousand dollars, nor the term of imprisonment be more than one year.

Puniſhment on perſons ſeting on foot certain expeditions.

Sec. 5. *And be it further enacted and declared*, That if any person shall within the territory or jurisdiction of the United States, begin or set on foot, or provide or prepare the means for any military expedition or enterprize to be carried on from thence against the territory or dominions of any foreign prince or state with whom the United States are at peace, every such person so offending, shall, upon conviction, be adjudged guilty of a high misdemeanor, and shall suffer fine and imprisonment at the discretion of the court in which the conviction shall be had, so as that such fine shall not exceed three thousand dollars, nor the term of imprisonment be more than three years.

Diſtrict courts to take cognizance of certain captures.

Sec. 6. *And be it further enacted and declared*, That the district courts shall take cognizance of complaints, by whomsoever instituted, in cases of captures made within the waters of the United States, or within a marine league of the coasts or shores thereof.

Power of the Preſident of the U. States herein.

Sec. 7. *And be it further enacted and declared*, That in every case in which a vessel shall be fitted out and armed, or attempted so to be fitted out or armed, or in which the force of any vessel of war, cruiser or other armed vessel shall be encreased or augmented, or in which any military expedition or enterprize shall be begun or set on foot contrary to the prohibitions and provisions of this act; and in every case of the capture of a ship or vessel within the jurisdiction or protection of the United States as above defined, and in every case in which any process issuing out of any court of the United States, shall be disobeyed or resisted by any person or persons having the custody of any vessel of war, cruiser or other armed vessel of any foreign prince or state, or of the subjects or citizens of such prince or state: In every such case it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land or naval forces of the United States, or of the militia thereof as shall be judged necessary for the purpose of taking possession of, and detaining any such ship or vessel with her prize or prizes, if any, in order to the executions of the prohibitions and penalties of this act, and to the restoring such prize or prizes, in the cases in which restoration shall have been adjudged, and also for the purpose of preventing the carrying on of any such expedition or enterprze from the territories of the United States against the territories or dominions of a foreign prince or state, with whom the United States are at peace.

Sec. 8. *And be it further enacted and declared*, That it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land or naval forces of the United States or of the militia thereof, as shall be necessary to compel any foreign ship, or vessel, to depart the United States, in all cases in which by the laws of nations or the treaties of the United States they ought not to remain within the United States.

Proſecution of treaſon not to be impaired.

Sec. 9. *And be it further enacted*, That nothing in the foregoing act shall be construed to prevent the prosecution or punishment of treason or any piracy defined by a treaty or other law of the United States.

Sec. 10. *And be it further enacted*, That this act shall continue and be in force for and during the term of two years, and from thence to the end of the next session of Congress, and no longer.

Limitation of this act.

FREDERICK A. MUHLENBERG,
Speaker of the House of Representatives.
RALPH IZARD,
President of the Senate, pro tempore.
APPROVED, June the fifth, 1794:
GEORGE WASHINGTON,
President of the United States.

AN ACT *for the punishment of certain crimes therein specified.*

Penalty on a citizen holding certain correſpondence with a foreign government or its agents.

BE *it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That if any person being a citizen of the United States, whether he be actually resident, or abiding within the United States, or in any foreign country, shall, without the permission or authority of the government of the United States, directly or indirectly, commence, or carry on, any verbal or written correspondence or intercourse with any foreign government, or any officer or agent thereof, with an intent to influence the measures or conduct of any foreign government, or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or defeat the measures of the government of the United States; or if any person, being a citizen of, or resident within the United States, and not duly authorised, shall counsel, advise, aid or assist in any such correspondence, with intent, as aforesaid, he or they shall be deemed guilty of a high misdemeanor, and on conviction before any court of the United States, having jurisdiction thereof, shall be punished by a fine not exceeding five thousand dollars, and by imprisonment during a term not

Aiders and abettors.

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less than six months, nor exceeding three years; *Provided always*, That nothing in this act contained shall be construed to abridge the right of individual citizens of the United States to apply, by themselves, or their lawful agents, to any foreign government, or the agents thereof, for the redress of any injuries in relation to person or property which such individuals may have sustained from such government, or any of its agents, citizens or subjects.

JONATHAN DAYTON, *Speaker of the House of Representatives.*

TH: JEFFERSON, *Vice-President of the United States, and President of the Senate.*

APPROVED, *January* 30, 1799.

JOHN ADAMS, *President of the United States.*

AN ACT *in addition to the act, entitled "An act for the punishment of certain crimes against the United States."*

Puniſhment to a perſon other than the owner who ſhall caſt away, &c. a veſſel at ſea.

BE *it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That any person, not being an owner, who shall, on the high seas, wilfully and corruptly cast away, burn, or otherwise destroy any ship or other vessel unto which he belongeth, being the property of any citizen or citizens of the United States, or procure the same to be done, and being thereof lawfully convicted, shall suffer death.

To the owner for like offence.

Sec. 2. *Be it further enacted*, That if any person shall, on the high seas, wilfully and corruptly cast away, burn or otherwise destroy any ship or vessel of which he is owner, in part or in whole, or in any wise direct or procure the same to be done, with intent or design to prejudice any person or persons that hath underwritten, or shall underwrite any policy or policies of insurance thereon, or if any merchant or merchants that shall load goods thereon, or if any other owner or owners of such ship or vessel, the person or persons offending therein being thereof lawfully convicted, shall be deemed and adjudged guilty of felony, and shall suffer death.

Perſons may be tried and puniſhed for crimes under the Revenue laws in five years from the commiſſion.

Sec. 3. *And be it further enacted*, That any person or persons guilty of any crime arising under the revenue laws of the United States, or incurring any fine or forfeiture by breaches of the said laws, may be prosecuted, tried and punished, provided the indictment or information be found at any time within five years after committing the offence or incurring the fine or forfeiture, any law or provision to the contrary notwithstanding.

NATHl. MACON,
Speaker of the House of Representatives.
JESSE FRANKLIN,
President of the Senate, pro tempore.
March 26, 1804.
APPROVED,
TH: JEFFERSON.

AN ACT *for the punishment of counterfeiting the current coin of the United States; and for other purposes.*

Penalties for falſely making and uttering coins

BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist, in falsely making, forging of the United States, or of foreign countries made current here.

or counterfeiting, any gold or silver coins, which have been, or which hereafter shall be coined at the mint of the United States, or who shall falsely make, forge, or counterfeit, or cause, or procure to be falsely made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting any foreign gold or silver coins, which by law now are or hereafter shall be made current, or be in actual use and circulation as money within the United States; or who shall utter, as true, any false, forged, or counterfeited coins of gold or silver, as aforesaid, for the payment of money, with intention to defraud any person or persons, knowing the same to be falsely made, forged or counterfeited; any such person so offending, shall be deemed and adjudged guilty of felony, and being thereof convicted according to the due course of law, shall be sentenced to imprisonment, and kept at hard labor for a period not less than three years, nor more than ten years; or shall be imprisoned not exceeding five years; and fined not exceeding five thousand dollars.

Penalties upon thoſe who ſhall import into the United States any falſe or counterfeit cons, to be circulated in this country.

Sec. 2. *And be it further enacted*, That if any person shall import or bring from any foreign place into the United States any false, forged, or counterfeited gold or silver coins, which are by law made current or are in actual use or circulation, as money within the United States, with the intent to utter, or make payment with the same, knowing the same to be falsely made, forged or counterfeited; or who shall utter, as true, any such false, forged, or counterfeited coins of gold or silver as aforesaid, for the payment of money, with intention to defraud any person or persons, knowing the same to be falsely made, forged or counterfeited, the person so offending shall be deemed guilty of felony, and being thereof convicted according to the due course of law, shall be sentenced to imprisonment, and kept at hard labor for a period not less than two years, nor more than eight years; or shall be imprisoned not exceeding two years, and fined not exceeding four thousand dollars.

Sec. 3. *And be it further enacted*, That if any person shall fraudulently and for gain's sake, by any art, way or means whatsoever, impair, diminish, falsify, scale, or lighten the gold or silver coins, which have been, or which shall hereafter be coined at the mint of the United States; or any foreign gold or silver coins, which are by law made current, or are in actual use and circulation as money within the United States, every person so offending shall be deemed guilty of a high misdemeanor, and shall be imprisoned not exceeding two years, and fined not exceeding two thousand dollars.

Penalties for impairing, falſifying, &c the coins of the United States, or thoſe of foreign countries in circulation here.

Sec. 4. *And be it further enacted*, That nothing in this act contained, shall be construed to deprive the courts of the individual states of jurisdiction, under the laws of the several states, over offences made punishable by this act.

NATHL. MACON,
Speaker of the House of Representatives.
S. SMITH,
President of the Senate, pro tempore.
April 21, 1806.
APPROVED,
TH: JEFFERSON.

AN ACT *to punish Frauds committed on the Bank of the United States.*

BE *it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That if any persons shall

Penalty on forging or uttering counterfeit bills, notes, orders or checks, by or upon the bank of the U. States.

falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist, in falsely making, forging or counterfeiting any bill or note issued by order of the president, directors and company of the Bank of the United States, or any order or check on the bank or corporation, or any cashier thereof, or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering any bill or note issued by order of the president, directors or company of the bank of the United States, or any order or check, on the said bank or corporation or any cashier thereof, or shall pass, utter or publish, or attempt to pass, utter or publish as true, any false, forged, or counterfeited bill, or note, purporting to be a bill, or note, issued by the order of the president, directors and company of the bank of the United States, or any false, forged or counterfeited order or check, upon the said bank or corporation, or any cashier thereof, knowing the same to be falsely forged or counterfeited, or shall pass, utter or publish, or attempt to pass, utter or publish as true, any falsely altered bill or note, issued by order of the president, directors or company of the bank of the United States, or any falsely altered order or check, on the said bank or corporation, or any cashier thereof, knowing the same to be falsely altered to defraud the said corporation, or any other body politic or person; every such person shall be deemed and adjudged guilty of felony, and being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept to hard labor, for a period not less than three years, nor more than ten years, or shall be imprisoned not exceeding ten years, and fined not exceeding five thousand dollars: *Provided*, That nothing herein contained shall be construed to deprive the courts of the individu-

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al states of the jurisdiction under the laws of the several states, over the offences, declared punishable by this act.

Repeal of a former act.

Sec. 2. *And be it further enacted*, That the act entitled "An act to punish frauds committed on the bank of the United States," passed the twenty-seventh day of June, one thousand seven hundred and ninety eight, shall be and the same is hereby repealed: *Provided nevertheless*, That the repeal of the said act shall not be so construed, as to prevent the trial, condemnation or punishment, of any person or persons, charged with or guilty of a violation of any of its provisions, previous to the passing of the act.

NATHL. MACON,
Speaker of the House of Representatives,
GEO: CLINTON, *Vice-President of the United States, and President of the Senate.*

February 24, 1807.
APPROVED,
TH: JEFFERSON.

The 3d, 12th, 14th, 15th, 18th, 19th, 24th, 26th, 28th and 29th Sections of

AN ACT *to establish the Post-Office of the United States.*

Penalty on obstructing the mail.

Sec. 3. *And be it further enacted*, That if any person shall knowingly and wilfully obstruct or retard the passage of the mail, or if any driver or carrier, or of any horse or carriage carrying the same, he shall upon conviction, for every such offence, pay a fine not exceeding one hundred dollars: And if any ferryman shall, by wilful negligence or refusal to transport the mail across any ferry, delay the same, he shall forfeit and pay for each half hour that the same shall be so delayed, a sum not exceeding ten dollars.

Penalty on perſons, not authorized, carrying letters, &c.

Sec. 12. *And be it further enacted*, That if any person, other than the Postmaster-General, or his deputies, or persons by them employed, shall be concerned in setting up or maintaining any foot or horse post, stage waggon, or other stage carriage, on any established post-road, or from one post-town to another post-town on any road adjacent or parrallel to an established post-road, or any packet-boat or other vessel, to ply regularly from one place to another between which a regular communication by water shall be established by the United States, and shall receive any letter or packet, other than newspapers, magazines, or pamphlets, and carry the same by such foot or horse post, stage-waggon, or other stage-carriage, packet-boat, or vessel, excepting only such letter or letters as may be directed to the owner or owners of such conveyance, and relating to the same, or to the person to whom any package or bundle in such conveyance is intended to be delivered, every person so offending shall forfeit, for every such offence, the sum of fifty dollars: *Provided*, That it shall be lawful for any person to send letters or packets by a special messenger.

Penalty on detaining, delaying or embezzling letters.

Sec. 14. *And be it further enacted*, That if any person, employed in any of the departments of the general post-office, shall unlawfully detain, delay, or open any letter, packet, bag or mail of letters, with which he shall be entrusted, or which shall have come to his possession, and which are intended to be conveyed by post, or if any person shall secrete, embezzle or destroy any letter or packet entrusted to him as aforesaid, and which shall not contain any security for, or assurances relating to money, as herein after described, every such offender, being thereof duly convicted, shall for every such offence, be fined not exceeding three hundred dollars, or imprisoned, not exceeding six months, or both, according to the circumstances and aggravations of the offence. And if any person employed as aforesaid, shall secrete, embezzle or destroy any letter, packet, bag or mail of letters, with which he shall be entrusted, or which shall have come to his possession, and are intended to be conveyed by post, containing any bank note, or bank post-bill, bill of exchange, warrant of the treasury of the United States, note of assignment of stock in the funds, letters of attorney for receiving annuities or dividends, or for selling stock in the funds, or for receiving the interest thereof, or any letter of credit, or note for, or relating to payment of monies, or any bond or warrant, draft, bill or promissory note whatsoever for the payment of money; or if any such person, employed as aforesaid, shall steal or take any of the same out of any letter, packet, bag or mail of letters, that shall come to his possession, he shall, on conviction for any such offence, be publicly whipped, not exceeding forty stripes, and be imprisoned not exceeding ten years. And if any person, who shall have taken charge of the mail of the United States, shall quit or desert the same, before his arrival at the next post-office, every such person so offending, shall forfeit and pay a sum not exceeding five hundred dollars for every such offence. And if any person concerned in carrying the mail of the United States, shall collect, receive or carry any letter or packet, or shall cause or procure the same to be done, contrary to this act, every such offender shall forfeit and pay, for every such offence, a sum not exceeding fifty dollars.

Penalty on carriers deserting the mail; or carrying letters contrary to law.

Sec. 15. *And be it further enacted*, That if any person shall rob any carrier of the mail of the

Penalty on robbing the mail carriers, or attempting it;

United States, or other person entrusted therewith, of such mail, or of part thereof, such offender or offenders shall, on conviction, be publicly whipped, not exceeding forty lashes, and be imprisoned not exceeding ten years; and if convicted a second time of a like offence he or they shall suffer death: Or if in effecting such robbery of the mail, the first time, the offender shall much wound the person having custody thereof, or put his life in jeopardy, by the use of dangerous weapons, such offender or offenders shall suffer death. And if any person shall attempt to rob the mail of the United States, by falling upon the person having custody thereof, shooting at him or his horses, or threatening him with dangerous weapons, and the robbery is not effected, every such offender, on conviction thereof, shall be punished by whipping, not exceeding thirty lashes, or with imprisonment, not exceeding two years, or with both, according to the discretion of the court before whom such conviction is had.

or ſtealing the mail, &c.

And if any person shall steal the mail, or shall steal or take from or out of the mail, or from or out of any post-office, any letter or packet, or if any person shall take the mail, or any letter or packet therefrom or from any post-office, whether with or without the consent of the person having custody thereof, and shall open, embezzle, or destroy any such mail, letter or packet, the same containing any article of value, or evidence of any debt, due, demand, right or claim, or if any person shall by fraud or deception, obtain from any person having custody thereof, any mail, letter or packet, containing any article of value, or evidence thereof, such offender or offenders, on conviction thereof, shall be whipped, not exceeding thirty lashes, or imprisoned not exceeding two years, or both, at the discretion of the court before whom such conviction is had. And if any person shall take any letter or packet not containing any article of value or evidence thereof out of a post-office, or shall open any letter or packet which shall have been in a post-office, or in the custody of a mail carrier, before it shall have been delivered to the person to whom it is directed, with design to obstruct the correspondence, to pry into another's business, or secrets, or shall secrete, embezzle or destroy any such mail, letter or packet, such offender, upon conviction, shall pay for every such offence a sum not exceeding one hundred dollars. *Provided also, and be it further enacted*, That every person who shall be imprisoned by a judgment of court under the 14th and 15th sections of this act, shall be kept at hard labour during the period of such imprisonment.

Penalty on taking away or opening letters.

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Penalty on franking letters improperly.

Sec. 16. *And be it further enacted*, That if any person shall frank letters other than those written by himself, or by his order, on the business of his office, he shall, on conviction thereof, pay a fine of ten dollars: *Provided*, That the Secretary of the Treasury, Secretary of State, Secretary of War, Secretary of the Navy, and Postmaster-General, may frank letters or packets on official business, prepared in any other public office, in the absence of the principal thereof. And if any person having the right to receive his letters free of postage, shall receive enclosed to him any letter or packet addressed to a person not having that right, it shall be his duty to return the same to the post-office, marking thereon the place from whence it came, that it may be charged with postage. And if any person shall counterfeit the hand writing or frank of any person, or cause the same to be done in order to evade the payment of postage, each person so offending shall pay for every such offence fifty dollars.

Penalty on counterfeiting a frank.

Newſpapers may go free to printers.

Sec. 19. *And be it further enacted*, That every printer of newspapers may send one paper to each and every other printer of newspapers within the

United States, free of postage, under such regulations as the Postmaster-General shall provide.

Diſtribution of penalties.

Sec. 24. *And be it further enacted*, That all pecuniary penalties and forfeitures incurred under this act, shall be, one half for the use of the person or persons informing and prosecuting for the same; and the other half to the use of the United States.

Exemptions of poſt-maſters.

Sec. 26. *And be it further enacted*; That the postmasters, and the persons employed in the transportation of the mail shall be exempt from militia duties, and serving on juries, or any fine or penalty for neglect thereof.

Before whom ſuits and proſecutions may be commenced.

Sec. 28. *And be it further enacted*, That all causes of action arising under this act may be sued, and all offenders against this act may be prosecuted, before the justices of the peace, magistrates and other judicial courts of the several states, and of the several territories of the United States, they having competent jurisdiction by the laws of such states or territories, to the trial of claims and demands of as great value, and of prosecutions where the punishments are of as great extent; and such justices, magistrates, or judiciary, shall take cognizance thereof, and proceed to judgment and execution as in other cases.

Judgment to be rendered the firſt term.

In certain caſes a continuance may be had.

Sec. 29. *And be it further enacted*, That in all suits for causes arising under this act, the court shall proceed to trial, and render judgment the first term after such suit shall be commenced: *Provided always*, That whenever service of the process shall not have been made twenty days at least previous to the return day of such term, the defendant shall be entitled to one continuance, if the court on the statement of such defendant shall judge it expedient: *Provided also*, That if the defendant in such suits shall make affidavit that he has a claim against the general post-office, not allowed by the Postmaster-General, although submitted to him conformable to the regulations of the post-office; and shall specify such claim in the affidavit, and that he could not be prepared for the trial at such term for want of evidence, the court in such case, being satisfied in those respects, may grant a continuance until the next succeeding term.

(Approved March 2, 1799.)

An Act *to prohibit the importation of Slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight.*

BE *it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That from and after the first day of January, one thousand eight hundred and eight, it shall not be lawful to import or bring into the United States, or the territories thereof, from any foreign kingdom, place or country, any negro, mulatto, or person of color, with intent to hold, sell, or dispose of such negro, mulatto, or person of colour, as a slave, or to be held to service or labour.

Sec. 2. *And be it further enacted,* That no citizen or citizens of the United States, or any other persons, shall, from and after the first day of January, in the year of our lord one thousand eight hundred and eight, for himself or themselves, or any other person whatsoever, either as master, factor, or owner, build, fit, equip, load or otherwise prepare any ship or vessel, in any port or place within the jurisdiction of the United States, nor shall cause any ship or vessel to sail from any port or place within the same, for the purpose of procuring any negro, mulatto or person of color, from any foreign kingdom, place or country, to be transported to any port or place whatsoever within the jurisdiction of the United States, to be held, sold, or disposed of as slaves, or to be held to service or labour; and if any ship or vessel shall be so fitted out for the purpose aforesaid, or shall be caused to sail so as aforesaid, every such ship or vessel, her tackle, apparel, and furniture, shall be forfeited to the United States, and shall be liable to be seized, prosecuted, and condemned in any of the circuit courts or district courts, for the district where the said ship or vessel may be found or seized.

Sec. 3. *And be it further enacted*, That all and every person so building, fitting out, equipping, loading, or otherwise preparing or sending away, any ship or vessel, knowing or intending that the same shall be employed in such trade or business, from and after the first day of January, one thousand eight hundred and eight, contrary to the true intent and meaning of this act, or any ways aiding or abetting therein, shall severally forfeit and pay twenty thousand dollars; one moiety thereof to the use of the United States, and the other moiety to the use of any person or persons who shall sue for and prosecute the same to effect.

Sec. 4. *And be it further enacted*, That if any citizen or citizens of the United States or any person resident within the jurisdiction of the same, shall from and after the first day of January, one thousand eight hundred and eight, take on board, receive or transport from Africa, or from any other foreign kingdom, place, or country, any negro, mulatto, or person of colour, in any ship or vessel, for the purpose of selling them in any port or place within the jurisdiction of the United States, as slaves, or to be held to service or labour, or shall be in any ways aiding or abetting therein, such citizen or citizens, or person, shall severally forfeit and pay five thousand dollars, one moiety thereof to the use of any person or persons who shall sue for and prosecute the same to effect, and every such ship or vessel in which such negro, mulatto, or person of colour, shall have been taken on board, received or transported as aforesaid, her tackle, apparel, and the goods and effects, which shall be found on board the same, shall be forfeited to the United States, and shall be liable to be seized, prosecuted, and condemned in any of the circuit courts or district courts in the district where said ship or vessel may be found or seized. And neither the importer nor any person or persons claiming from or under him shall hold any right or title whatsoever to any negro, mulatto, or person of colour, nor to the service or labour thereof, who may be imported or brought within the United States, or territories thereof, in violation of this law, but the same shall remain subject to any regulations not contravening the provisions of this act, which the legislature of the several states or territories at any time hereafter may make, for disposing of any such negro, mulatto, or person of colour.

Sec. 5. *And be it further enacted*, That if any citizen or citizens of the United States, or any other person resident within the jurisdiction of the same, shall from and after the first day of January, one thousand eight hundred and eight, contrary to the true intent and meaning of this act, take on board any ship or vessel, from any of the coasts or kingdoms of Africa, or from any other foreign kingdom, place or country, any negro, mulatto, or person of colour, with intent to sell him, her, or them, for a slave or slaves, to be held to service or labour, and shall transport the same to any port or place within the jurisdiction of the United States, and there sell such negro, mulatto, or person of colour, so transported as aforesaid, for a slave to be held to service or labour, every such offender shall be deemed guilty of a high misdemeanor, and being thereof convicted before any court having competent jurisdiction, shall suffer imprisonment for not more than ten years nor less than five, and be fined not exceeding ten thousand dollars, nor less than one thousand dollars.

Sec. 6. *And be it further enacted*, That if any person or persons whatsoever, shall, from and after the first day of January, one thousand eight hundred and eight, purchase or sell any negro, mulatto, or person of colour, for a slave, or to be held to service or labour, who shall have been imported, or brought from any foreign kingdom, place, or country, or from the dominions of any foreign state, immediately adjoining the United States, into any port or place within the jurisdiction of the United States, after the last day of December, one thousand eight hundred and seven, knowing at the time of such purchase or sale, such negro, mulatto, or person of colour, was so brought within the jurisdiction of the United States, as aforesaid, such purchaser and seller shall severally forfeit and pay for every negro, mulatto, or person of colour, so purchased or sold as aforesaid, eight hundred dollars; one moiety thereof to the United States, and the other moiety to the use of any person or persons who shall sue for and prosecute the same to effect: *Provided*, That the aforesaid forfeiture, shall not extend to the seller or purchaser of any negro, mulatto, or person of colour, who may be sold or disposed of in virtue of any regulation which may hereafter be made by any of the legislatures of the several states in that respect in pursuance of this act, and the constitution of the United States.

Sec. 7. *And be it further enacted*, That if any ship or vessel shall be found, from and after the first day of January, one thousand eight hundred and eight, in any river, port, bay, or harbour, or on the high seas, within the jurisdictional limits of the United States, or hovering on the coast thereof, having on board any negro, mulatto, or person of colour, for the purpose of selling them as slaves, or with intent to land the same, in any port or place within the jurisdiction of the United States, contrary to the prohibition of this act, every such ship or vessel, together with her tackle, apparel and furniture, and the goods or effects which shall be found on board the same, shall be forfeited to the use of the United States, and may be seized, prosecuted, and condemned, in any court of the United States, having jurisdiction thereof. And it shall be lawful for the President of the United States, and he is hereby authorised, should he deem it expedient, to cause any of the armed vessels of the United States to be manned, and employed to cruise on any part of the coast of the United States, or territories thereof, where he may judge attempts will be made to violate the provisions of this act, and to instruct and direct the commanders of armed vessels of the United States, to seize, take and bring into any port of the United States, all such ships or vessels, and moreover to seize, take and bring into any port of the United States, all ships or vessels of the United States, wheresoever found on the high seas, contravening the provisions of this act, to be proceeded against according to law, and the captain, master, or commander of every such ship or vessel, so found and seized as aforesaid, shall be deemed guilty of a high misdemeanor, and shall be liable to be prosecuted before any court of the United States having jurisdiction thereof; and being thereof convicted, shall be fined not exceeding ten thousand dollars, and be imprisoned not less than two years, and not exceeding four years. And the proceeds of all ships and vessels, their tackle, apparel and furniture, and the goods and effects on board of them, which shall be so seized, prosecuted and condemned, shall be divided equally between the United States and the officers and men who shall make such seizure, take or bring the same into port for condemnation, whether such seizure be made by an armed vessel of the United States, or revenue cutters thereof, and the same shall be distributed in like manner, as is provided by law, for the distribution of prizes taken from an enemy: *Provided*, That the officers and men, to be entitled to one half of the proceeds aforesaid, shall safe keep every negro, mulatto, or person of colour, found on board any ship or vessel, so by them seized, taken, or brought into port for condemnation, and shall deliver every such negro, mulatto, or person of colour, to such person or persons as shall be appointed by the respective states, to receive the same, and if no such person or persons shall be appointed by the respective states, they shall deliver every such negro, mulatto, or persons of colour, to the overseers of the poor of the port or place where such ship or vessel may be brought or found, and shall immediately transmit to governor or chief magistrate of the state, an account of their proceedings, together with the number of such negroes, mulattoes, or persons of colour, and a descriptive list of the same, that he may give directions respecting such negroes, mulattoes, or persons of colour.

Sec. 8. *And be it further enacted*, That no captain, master, or commander of any ship or vessel, of less burthen than forty tons, shall, from and after the first day of January, one thousand eight hundred and eight, take on board and transport any negro, mulatto, or person of colour, to any port or place whatsoever, for the purpose of selling or disposing of the same as a slave, or with intent that the same may be sold or disposed of, to be held to service or labour, on penalty of forfeiting for every such negro, mulatto, or person of colour, so taken on board and transported as aforesaid, the sum of eight hundred dollars; one moiety thereof, to the use of the United States, and the other moiety to any person or persons, who shall sue for, and prosecute the same to effect: *Provided however*, That nothing in this section shall extend to prohibit the taking on board or transporting on any river or inland bay of the sea, within the jurisdiction of the United States, any negro, mulatto, or person of colour, (not imported contrary to the provisions of this act) in any vessel or species of craft whatever.

Sec. 9. *And be it further enacted*, That the captain, master, or commander of any ship or vessel, of the burthen of forty tons or more, from and after the first day of January, one thousand eight hundred and eight, sailing coastwise from any port in the United States, to any other port or place within the jurisdiction of the same, having on board any negro, mulatto, or person of colour, for the purpose of transporting them to be sold or disposed of as slaves, or to be held to service or labour, shall, previous to the departure of such ship or vessel, make out and subscribe duplicate manifests of every such negro, mulatto, or person of colour, on board such ship or vessel, therein specifying the name and sex of each person, their age and stature, as near as may be, and the class to which they respectively belong, whether negro, mulatto, or person of colour, with the name and place of residence of every owner, or shipper of the same, and shall deliver such manifests to the collector of the port, if there be one, otherwise to the surveyor, before whom the captain, master or commander, together with the owner or shipper shall severally swear or affirm, to the best of their knowledge and belief, that the persons therein specified were not imported or brought into the United States, from and after the first day of January, one thousand eight hundred and eight, and that under the laws of the state they are held to service or labor; whereupon the said collector or surveyor shall certify the same upon the said manifests; one of which he shall return to the said captain, master or commander, with a permit, specifying thereon the number, names and general description of such persons, and authorising him to proceed to the port of his destination. And if any ship or vessel, being laden and destined as aforesaid, shall depart from the port where she may then be, without the captain, master or commander, having first made out and subscribed duplicate manifests of every negro, mulatto, and person of colour, on board such ship or vessel as aforesaid, and without having previously delivered the same to the said collector or surveyor, and obtained a permit, in manner as herein required, or shall, previous to her arrival at the port of her destination, take on board any negro, mulatto or person of colour, other than those specified in the manifests as aforesaid, every such ship or vessel, together with her tackle, apparel, and furniture, shall be forfeited to the use of the United States, and may be seized, prosecuted and condemned in any court of the United States having jurisdiction thereof. And the captain, master or commander of every such ship or vessel, shall moreover forfeit for every such negro, mulatto, or person of colour, so transported or taken on board, contrary to the provisions of this act, the sum of one thousand dollars; one moiety thereof to the United States, and the other moiety to the use of any person or persons who shall sue for and prosecute the same to effect.

Sec. 10. *And be it further enacted*, That the captain, master or commander of every ship or vessel, of the burthen of forty tons or more, from and after the first day of January, one thousand eight hundred and eight, sailing coastwise, and having on board any negro, mulatto or person of colour, to sell or dispose of as slaves, or to be held to service or labor, and arriving at any port within the jurisdiction of the United States, from any other port within the same, shall, previously to the unlading or putting on shore any of the persons aforesaid, or suffering them to go on shore, deliver, to the collector, if there be one, or if not, to the surveyor residing at the port of her arrival, the manifest certified by the collector or surveyor of the port from whence she sailed, as is herein before directed; to the truth of which, before such officer, he shall swear or affirm, and if the collector or surveyor shall be satisfied therewith, he shall thereupon grant a permit for unlading or suffering such negro, mulatto or person of colour to be put on shore. And if the captain, master or commander of any such ship or vessel, being laden as aforesaid, shall neglect or refuse to deliver the manifest, at the time and in the manner herein directed, or shall land or put on shore any negro, mulatto or person of colour, for the purpose aforesaid, before he shall have delivered his manifest as aforesaid, and obtained a permit for that purpose, every such captain, master or commander, shall forfeit and pay ten thousand dollars, one moiety thereof to the United States, the other moiety to the use of any person or persons who shall sue for and prosecute the same to effect.

NATHL. MACON,
Speaker of the House of Representatives,
GEO: CLINTON, *Vice-President of the United States, and President of the Senate.*
March 2, 1807.—Approved,
Th: JEFFERSON.

PART V.

LAWS RELATING TO INDIAN INTERCOURSE.

AN ACT *to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers.*

Boundaries to be eſtabliſhed.

Beginning thereof.

BE *it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the following boundary line, established by treaty between the United States and various Indian tribes, shall be clearly ascertained, and distinctly marked in all such places as the President of the United States shall deem necessary, and in such manner as he shall direct, to wit; Beginning at the mouth of the Cayahoga river on Lake Erie, and running thence up the same to the portage between that and the Tuscaroras branch of the Muskingum: thence, down that branch, to the crossing place above fort Laurence; thence westwardly to a fork of that branch of the Great Miami river running into the Ohio, at or near which fork stood Laromie's store, and where commences the portage, between the Miami of the Ohio and St. Mary's river, which is a branch of the Miami, which runs into Lake Erie; thence a westwardly course to fort Recovery, which stands on a branch of the Wabash; thence south westwardly, in a direct line to the Ohio, so as to intersect that river, opposite the mouth of Kentucky or Cuttawa river; thence down the said river Ohio to the tract of one hundred and fifty thousand acres, near the rapids of the Ohio, which has been assigned to general Clarke, for the use of himself and his warriors; thence around the said tract, on the line of the said tract, till it shall again intersect the said river Ohio;

thence down the same to a point opposite the high lands or ridge between the mouth of the Cumberland and Tennessee rivers; thence south eastwardly on the said ridge, to a point, from whence a south-west line will strike the mouth of Duck river; thence, still eastwardly on the said ridge, to a point forty miles above Nashville; thence north east to Cumberland river; thence up the said river to where the Kentucky road crosses the same; thence to the Cumberland mountain, at the point of Campbell's line; thence in a south westwarly direction along the foot of the Cumberland mountain to Emory's river; thence down the same to its junction with the river Clinch; thence down the river Clinch to Hawkins' line; thence along the same to a white oak, marked one mile tree; thence south fifty-one degrees west, three hundred and twenty-eight chains, to a large ash tree on the bank of the river Tennessee, one mile below south-west point; thence up the north-east margin of the river Tennessee (not including islands) to the Wild Cat Rock, below Tellico block-house; thence in a direct line to the Militia spring, near the Maryville road leading from Tellico; thence from the said spring to the Chilhowee mountain by a line so to be run as will leave all the farms on Nine-mile creek to the northward and eastward of it, and to be continued along the Chilhowee mountain until it strikes Hawkins' line; thence along the said line to the great Iron mountains; and from the top of which a line to be continued in a south easwardly course to where the most southern branch of Little river crosses the divisional line to Tugaloo river; thence along the South Carolina Indian boundary to and over the Ocunna mountain, in a south west course to Tugaloo river; thence in a direct line to the top of Currahee mountain, where the Creek line passes it; thence to the head or source of the main

Indian boundary continued.

Indian boundary deſcribed.

sonth branch of the Oconee river, called the Appalachee; thence down the middle of the said main south branch and river Oconee, to its confluence with Oakmulgee, which forms the river Altamaha: thence down the middle of the said Altamaha, to the old line on the said river; and thence along the said old line to the river St. Mary's: *Provided always*, That if the boundary line between the said Indian tribes and the United States shall, at any time hereafter, be varied, by any treaty which shall be made between the said Indian tribes and the United States, then all the provisions contained in this act shall be construed to apply, to the said line so to be varied, in the same manner, as said provisions apply, by force of this act, to the boundary line herein before recited.

Boundary terminates.

Indian boundary may be varied by treaties.

Line not to croſſed.

Sec. 2. *And be it further enacted*, That if any citizen of, or other person resident in the United States, or either of the territorial districts of the United States, shall cross over, or go within the said boundary line, to hunt, or in any wise destroy the game; or shall drive, or otherwise convey any stock of horses or cattle to range on any lands allotted or secured by treaty with the United States, to any Indian tribes, he shall forfeit a sum not exceeding one hundred dollars, or be imprisoned not exceeding six months.

Penalty for treſpaſs.

No one to go into the Indian country without a paſſport.

Sec. 3. *And be it further enacted*, That any such citizen or other person, shall go into any country which is allotted, or secured by treaty as aforesaid, to any of the Indian tribes south of the river Ohio, without a passport first had and obtained, from the governor of some one of the United States, or the officer of the troops of the United States, commanding at the nearest post on the frontiers, or such other person as the President of the United States may, from time to time, authorise to grant the same, shall forfeit a sum not exceeding fifty

By whom to be granted.

Penalty without.

dollars, or be imprisoned not exceeding three months.

Sec. 4. *And be it further enacted*, That if any such citizen, or other person, shall go into any town, settlement or territory, belonging, or secured by treaty with the United States, to any nation or tribe of Indians, and shall there commit robbery, larceny, trespass or any other crime, against the person or property of any friendly Indian or Indians, which would be punishable, if committed within the jurisdiction of any state, against a citizen of the United States; or, unauthorised by law, and with a hostile intention, shall be found on any Indian land, such offender shall forfeit a sum not exceeding one hundred dollars, and be imprisoned not exceeding twelve months; and shall also, when property is taken or destroyed, forfeit and pay to such Indian or Indians, to whom the property taken and destroyed belongs, a sum equal to twice the just value of the property so taken or destroyed; and if such offender shall be unable to pay a sum at least equal to the said just value, whatever such payment shall fall short of the said just value, shall be paid out of the treasury of the United States: *Provided nevertheless*, That no such Indian, shall be entitled to any payment out of the treasury of the United States, for any such property taken or destroyed, if he, or any of the nation to which he belongs shall have sought private revenge, or attempted to obtain satisfaction by any force or violence.

Offences in the Indian territory punishable.

Penalties.

Indians not to be remunerated if they uſe violence.

Sec. 5. *And be it further enacted*, That if any such citizen, or other person, shall make a settlement on any lands belonging, or secured, or granted by treaty with the United States, to any Indian tribe, or shall survey, or attempt to survey, such lands, or designate any of the boundaries, by marking trees, or otherwise, such offender shall forfeit a sum

No ſettlement or ſurvey to be made.

Penalties.

Military force may be employed againſt intruders.

not exceeding one thousand dollars, and suffer imprisonment not exceeding twelve months. And it shall, moreover, be lawful for the President of the United States to take such measures, and to employ such military force, as he may judge necessary, to remove from lands, belonging or secured by treaty, as aforesaid, to any Indian tribe, any such citizen, or other person, who has made, or shall hereafter make, or attempt to make a settlement thereon.

Murder of Indians puniſhable with death.

Sec. 6. *And be it further enacted*, That if any such citizen, or other person, shall go into any town, settlement or territory belonging to any nation or tribe of Indians, and shall there commit murder, by killing any Indian or Indians, belonging to any nation or tribe of Indians, in amity with the United States, such offender, on being thereof convicted, shall suffer death.

Traders muſt have a licenſe.

Licenſes for two years only.

Bond to be given by licenſed traders.

Sec. 7. *And be it further enacted*, That no such citizen, or other person, shall be permitted to reside at any of the towns, or hunting camps, of any of the Indian tribes as a trader, without a licence under the hand and seal of the superintendant of the department, or of such other person as the President of the United States shall authorise to grant licenses for that purpose: which superintendant, or person authorised, shall, on application, issue such license, for a term not exceeding two years, to such trader, who shall enter into bond with one or more sureties, approved of by the superintendant, or person issuing such licence, or by the President of the United States, in the penal sum of one thousand dollars, conditioned for the true and faithful observance of such regulations and restrictions, as are, or shall be made for the government of trade and intercourse with the Indian tribes: and the superintendent, or person issuing such license, shall have full power and authority to recall the same, if the person so licensed shall transgress any of the regulations, or restrictions, provided for the government of trade and intercourse with the Indian tribes; and shall put in suit such bonds as he may have taken, on the breach of any condition therein contained.

Licenſe may be recalled for miſconduct.

Sec. 8. *And be it further enacted*, That any such citizen or other person, who shall attempt to reside in any town or hunting camp, of any of the Indian tribes, as a trader, without such license, shall forfeit all the merchandize offered for sale to the Indians, or found in his possession, and shall, moreover, be liable to a fine not exceeding one hundred dollars, and to imprisonment not exceeding thirty days.

Goods of unlicenſed traders forfeited.

Further penalty.

Sec. 9. *And be it further enacted*, That if any such citizen, or other person, shall purchase, or receive of any Indian, in the way of trade or barter, a gun, or other article commonly used in hunting, any instrument of husbandry, or cooking utensil, of the kind usually obtained by the Indians, in their intercourse with white people, or any article of cloathing, excepting skins or furs, he shall forfeit a sum not exceeding fifty dollars, and be imprisoned not exceeding thirty days.

Articles which ſhall not be purchaſed from Indians.

Penalty.

Sec. 10. *And be it further enacted*, That no such citizen, or other person, shall be permitted to purchase any horse of an Indian, or of any white man in the Indian territory, without special license for that purpose; which license, the superintendant, or such other person as the President shall appoint, is hereby authorised to grant, on the same terms, conditions and restrictions, as other licenses are to be granted under this act: and any such person, who shall purchase a horse or horses, under such license, before he exposes such horse or horses for sale, and within fifteen days after they have been brought out of the Indian country, shall make a

Horſes not to be bought or ſold without licenſe.

Fifteen days notice before ſale of a horſe and deſcription given.

Penalties.

particular return to the superintendant, or other person, from whom he obtained his license, of every horse purchased by him, as aforesaid; describing such horses, by their colour, height, and other natural or artificial marks, under the penalty contained in their respective bonds. And every such person, purchasing a horse or horses, as aforesaid, in the Indian country, without a special license, shall for every horse thus purchased and brought into any settlement of citizens of the United States, forfeit a sum not exceeding one hundred dollars, and be imprisoned not exceeding thirty days. And every person, who shall purchase a horse, knowing him to be brought out of the Indian territory, by any person or persons, not licensed, as above, to purchase the same, shall forfeit the value of such horse.

Agents of the public not to trade.

Sec. 11. *And be it further enacted*, That no agent, superintendant, or other person authorized to grant a license to trade, or purchase horses, shall have any interest or concern in any trade with the Indians, or in the purchase or sale of any horse to, or from any Indian, excepting for and on account of the United States; and any person offending herein, shall forfeit a sum not exceeding one thousand dollars, and be imprisoned not exceeding twelve months.

No purchaſes from Indians but under treaties.

Miſdemeanor to attempt procuring them in any other manner

Sec. 12. *And be it further enacted*, That no purchase, grant, lease, or other conveyance of lands, or of any title or claim thereto, from any Indian, or nation, or tribe of Indians, within the bounds of the United States, shall be of any validity, in law or equity, unless the same be made by treaty or convention, entered into pursuant to the constitution: and it shall be a misdemeanor in any person, not employed under the authority of the United States, to negociate such treaty or convention, directly or indirectly, to treat with any such

Indian nation, or tribe of Indians, for the title or purchase of any lands by them held or claimed, punishable by fine not exceeding one thousand dollars, and imprisonment not exceeding twelve months: *Provided nevertheless*, That it shall be lawful for the agent or agents of any state, who may be present at any treaty held with Indians, under the authority of the United States, in the presence, and with the approbation of the commissioner or commissioners of the United States, appointed to hold the same, to propose to, and adjust with, the Indians, the compensation to be made, for their claims to lands within such state, which shall be extinguished by the treaty.

How puniſhable.

Exception as to ſtates making purchaſes in a certain manner.

Sec. 13. *And be it further enacted*, That in order to promote civilization among the friendly Indian tribes, and to secure the continuance of their friendship, it shall be lawful for the President of the United States, to cause them to be furnished with useful domestic animals, and implements of husbandry, and with goods or money, as he shall judge proper, and to appoint such persons, from time to time, as temporary agents, to reside among the Indians, as he shall think fit: *Provided*, That the whole amount of such presents, and allowance to such agents, shall not exceed fifteen thousand dollars per annum.

Preſident authoriſed to uſe means of civilizing the Indians.

Means limited.

Sec. 14. *And be it further enacted*, That if any Indian or Indians, belonging to any tribe in amity with the United States, shall come over or cross the said boundary line, into any state or territory inhabited by citizens of the United States, and there take, steal or destroy any horse, horses, or other property, belonging to any citizen or inhabitant of the United States, or of either of the territorial districts of the United States, or shall commit any murder, violence or outrage, upon any such citizen or inhabitant, it shall be the duty of

Means of redreſs preſcribed for tranſgreſſion of Indians.

such citizen or inhabitant, his representative, attorney, or agent, to make application to the superintendant, or such other person as the President of the United States shall authorise for that purpose; who upon being furnished with the necessary documents and proofs, shall, under the direction or instruction of the President of the United States, make application to the nation or tribe, to which such Indian or Indians shall belong, for satisfaction; and if such nation or tribe shall neglect or refuse to make satisfaction, in a reasonable time, not exceeding twelve months, then it shall be the duty of such superintendant or other person authorised as aforesaid, to make return of his doings to the President of the United States, and forward to him all the documents and proofs in the case, that such further steps may be taken, as shall be proper to obtain satisfaction, for the injury; and in the mean time, in respect to the property so taken, stolen or destroyed, the United States guarantee to the party injured, an eventual indemnification: *Provided always*, That if such injured party, his representative, attorney or agent, shall, in any way, violare any of the provisions of this act, by seeking, or attempting to obtain private satisfaction or revenge, by crossing over the line, on any of the Indian lands, he shall forfeit all claim upon the United States, for such indemnification: *Aud provided also*, That nothing herein contained shall prevent the legal apprehension or arresting, within the limits of any state or district, of any Indian having so offended: *And provided further*, That it shall be lawful for the President of the United States, to deduct such sum or sums, as shall be paid for the property taken, stolen or destroyed by any such Indian, out of the annual stipend, which the United States are bound to pay to the tribe, to which such Indian shall belong.

Party injured loſes his remedy if he ſeeks private revenge or redreſs.

but this does not exempt the Indian offending from legal apprehenſion in U. S.

How property to be paid for.

What courts have juriſdiction in theſe caſes.

Sec. 15. *And be it further enacted*, That the superior courts in each of the said territorial districts, and the circuit courts, and other courts of the United States of similar jurisdiction in criminal cases, in each district of the United States, in which any offender against this act shall be apprehended, or, agreeably to the provisions of this act, shall be brought for trial, shall have and they are hereby invested with full power and authority to hear and determine all crimes, offences and misdemeanors, against this act; such courts proceeding therein in the same manner, as if such crimes, offences and misdemeanors had been committed within the bounds of their respective districts: And in all cases where the punishment shall not be death, the county courts of quarter sessions in the said territorial districts, and the district courts of the United States, in their respective districts, shall have, and are hereby invested with like power to hear and determine the same, any law to the contrary notwithstanding; And in all cases, where the punishment shall be death, it shall be lawful, for the governor either of the territorial districts where the offender shall be apprehended, or into which he shall be brought for trial, to issue a commission of oyer and terminer to the superior judges of such district, who shall have full power and authority to hear and determine all such capital cases, in the same manner as the superior courts of such district have in their ordinary sessions; and when the offender shall be apprehended, or brought for trial into any of the United States, except Kentucky or Tennessee, it shall be lawful for the President of the United States, to issue a like commission to any one or more judges of the supreme court of the United States, and the judge of the district, in which such offender may have been apprehended or shall have been brought for trial; which judges, or any two of them, shall have the same jurisdiction in such capital cases, as the circuit court of such district, and shall proceed to trial and judgment, in the same manner as such circuit court might or could do. And the district courts of Kentucky, Tennessee and Maine shall have jurisdiction of all crimes, offences and misdemeanors committed against this act, and shall proceed to trial and judgment in the same manner, as the circuit courts of the United States.

Perſons croſſing the line and going into the Indian country contrary to this law, how to be dealt with.

Sec. 16. *And be it further enacted*, That it shall be lawful for the military force of the United States to apprehend every person who shall, or may be found in the Indian country over and beyond the said boundary line between the United States and the said Indian tribes, in violation of any of the provisions or regulations of this act, and him or them immediately to convey, in the nearest, convenient and safe route, to the civil authority of the United States, in some one of the three next adjoining states or districts, to be proceeded against in due course of law: *Provided*, That no person, apprehended by military force as aforesaid, shall be detained longer than five days after the arrest, and before removal. And all officers and soldiers who may have any such person or persons in custody, shall treat them with all the humanity which the circumstances will possibly permit; and every officer and soldier who shall be guilty of mal-treating any such person, while in custody, shall suffer such punishment as a court martial shall direct: *Provided*, That the officer having custody of such person or persons shall, if required by such person or persons, conduct him or them to the nearest judge of the supreme or superior court of any state, who, if the offence is bailable, shall take proper bail if offered, returnable to the district court next to be holden in said district, which bail the said judge is

Military not to uſe violence.

hereby authorised to take, and which shall be liable to be estreated as any other recognizance for bail in any court of the United States; and if said judge shall refuse to act, or the person or persons fail to procure satisfactory bail, then the said person or persons are to be proceeded with according to the directions of this act.

Violators of this law, if found within the U.S. how puniſhable.

Sec. 17. *And be it further enacted*, That if any person, who shall be charged with a violation of any of the provisions or regulations of this act, shall be found within any of the United States, or either of the territorial districts of the United States, such offender may be there apprehended and brought to trial, in the same manner, as if such crime or offence had been committed within such state or district; and it shall be the duty of the military force of the United States, when called upon by the civil magistrate, or any proper officer, or other person duly authorised for that purpose and having a lawful warrant, to aid and assist such magistrate, officer, or other person authorised, as aforesaid, in arresting such offender, and him committing to safe custody, for trial according to law.

How penalties are to be fixed;

To whoſe benefit.

Sec. 18. *And be it further enacted*, That the amount of fines, and duration of imprisonment, directed by this act as a punishment for the violation of any of the provisions thereof, shall be ascertained and fixed, not exceeding the limits prescribed, in the discretion of the court, before whom the trial shall be had; and that all fines and forfeitures, which shall accrue under this act, shall be one half to the use of the informant, and the other half to the use of the United States; except where the prosecution shall be first instituted on behalf of the United States; in which case the whole shall be to their use.

Sec. 19. *And be it further enacted*, That nothing in this act shall be construed to prevent any trade or

Trade and intercourſe with Indians under circumſtances deſcribed not forbidden by this act.

intercourse with Indians living on lands surrounded by settlements of the citizens of the United States, and being within the ordinary jurisdiction of any of the individual states; or the unmolested use of a road from Washington district to Mero district, or to prevent the citizens of Tennessee from keeping in repair the said road, under the direction or orders of the governor of said state, and of the navigation of the Tennessee river, as reserved and secured by treaty; nor shall this act be construed to prevent any person or persons travelling from Knoxville to Price's settlement, or to the settlement on Obed's river, (so called,) provided they shall travel in the trace or path which is usually travelled, and provided the Indians make no objection; but if the Indians object, the President of the United States is hereby authorised to issue a proclamation, prohibiting all travelling on said traces, or either of them, as the case may be, after which, the penalties of this act shall be incurred by every person travelling or being found on said traces, or either of them, to which the prohibition may apply, within the Indian boundary, without a passport.

Preſident to cauſe boundaries to be aſcertained and marked.

Sec. 20. *And be it further enacted,* That the President of the United States be, and he is hereby authorized to cause to be clearly ascertained and distinctly marked, in all such places as he shall deem necessary, and in such manner as he shall direct, any other boundary lines between the United States and any Indian tribe, which now are, or hereafter may be established by treaty.

He may take meaſures to prevent the ſale of ſpirituous liquors to the Indians.

Sec. 21. *And be it further enacted,* That the President of the United States be authorized to take such measures, from time to time, as to him may appear expedient to prevent or restrain the vending or distributing of spirituous liquors among all or any of the said Indian tribes, any thing herein contained to the contrary thereof notwitstanding.

Sec. 22. *And be it further enacted*, That this Act shall be in force from the passage thereof; and so far as respects the proceedings under this act, it is to be understood, that the act entitled, "An act to amend an act, entitled, "An act giving effect to the laws of the United States within the district of Tennessee," is not to operate.

This act to be in force from its date. Proceedings under not to be affected by another act, mentioned.

NATHL. MACON,
Speaker of the House of Representatives.
A. BURR, *Vice-President of the United States, and President of the Senate.*

Approved—March 30, 1802.
TH: JEFFERSON.

AN ACT *supplementary to the act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers.*

The act to which this is ſupplementary, was paſſed on the 3d of March, 1799, and was limited to three years, at the expiration of which another law of the ſame title, and containing the ſame proviſions, was enacted.

BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That from and after the passing of this act, it shall be lawful for any military officer, who may have charge or custody of any person or persons, who may have been, or shall be apprehended in the Indian country, over and beyond the boundary line between the United States and the said Indian tribes, in violation of any of the provisions or regulations of the act, intituled, "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," to conduct him or them to some one of the justices of the inferior or county court of any county nearest to the place of his arrest, who, if the offence is bailable, is hereby authorised to take proper bail, if offered, in like manner as the judge of the superior court of any state is authorised to do, in and by the act above recited; unless such person, holden in custody as aforesaid, shall be charged upon oath with murder, or any other offence punishable with death, in which case such justice of any inferior or county court shall not have authority to take bail for such person.

THEODORE SEDGWICK,
Speaker of the House of Representatives.
TH: JEFFERSON,
Vice-President of the United States, and President of the Senate.
APPROVED—April 22d, A. D. 1800.
JOHN ADAMS,
President of the United States.

AN ACT *for establishing trading houses with the Indian tribes.*

Trading houſes, how to be eſtabliſhed at ſuch poſts and places on the frontiers as the Preſident may chuſe.

BE *it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That it shall be lawful for the President of the United States, to establish trading houses at such posts and places on the frontiers, or in the Indian country, on either or both sides of the Mississippi river, as he shall judge most convenient, for the purpose of carrying on a liberal trade with the several Indian nations, within the United States, or their territories.

Superintendant of Indian trade.

His duties.

Sec. 2. *And be it further enacted,* That the President of the United States shall be authorised to appoint a superintendant of Indian trade, whose duty it shall be to purchase and take charge of all goods intended for trade with the Indian nations aforesaid, and to transmit the same to such places as he shall be directed by the President. And he shall take an oath or affirmation faithfully to execute the trust committed to him, and that he will not directly, or indirectly, be concerned or interested in any trade, commerce or barter, but on the public account; and he shall also give bond, in the penal sum of twenty thousand dollars, with sufficient security, to be approved of by the secretary of the Treasury of the United States, truly and honestly to account for all the money, goods and other property, whatever, which shall come into his hands, or for which in good faith he ought so to account, and to perform all the duties required of him by this act: and his accounts shall be made up quarter yearly, and transmitted to the secretary of the treasury.

Sec. 3. *And be it further enacted*, That the Superintendant of Indian trade shall receive an annual salary, of two thousand dollars, payable quarter yearly, at the treasury of the United States.

His compenſation.

Sec. 4. *And be it further enacted*, That the President of the United States shall be authorised to appoint an agent for each trading house established under the provisions of this act: and every such agent shall give bond with sufficent security in such sum as the President shall direct, truly and honestly to account for all the money, goods, and other property whatever, which shall come into his hands, and for which he ought so to account, and to perform all the duties required of him by this act.

Agents for the trading houſes eſtabliſhed by this act to be appointed by the Preſident.

Sec. 5. *And be it further enacted*, That it shall be the duty of each of the said agents, to receive from the superintendant of Indian trade, and dispose of in trade with the Indian nations aforesaid, such goods as may be transmitted to him by the said superintendant, to be received and disposed of as aforesaid, according to the rules and orders which the President of the United States shall prescribe; and every such agent shall take an oath or affirmation, faithfully to execute the trust committed to

Agents to receive and diſpoſe of in trade among the Indians, goods from the ſuperintendant; according to rules and regulations of the Preſident.

Oath of the agents.

Quarteryearly accounts to be rendered by them to the ſuperintendant.

Duplicates to be ſent to the ſecretary of the treaſury.

him; and that he will not, directly or indirectly, be concerned or interested in any trade, commerce or barter, but on the public account, and he shall render an account quarter yearly, to the superintendant of Indian trade, of all money, goods, and other property whatsoever, which shall be trasmitted to him, or which shall come into his hands; or for which, in good faith, he ought to account; and he shall transmit duplicates of his accounts to the secretary of the treasury of the United States.

Agents, &c. &c. not to be concerned in exporting, directly or indirectly, the furs and peltries of the U. S. or be concerned in trade &c.&c. but on the public account.

Their emoluments limited to the pay of the United States.

Sec. 6. *And be it further enacted*, That the superintendant of Indian trade, the agents, their clerks, or other persons employed by them, shall not be, directly or indirectly, concerned in exporting to a foreign country, any peltries or furs belonging to the United States, or interested in carrying on the business of trade or commerce, on ther own, or any other than the public account, or take or apply to his or their own use, any emolument or gain for negociating or transacting any business or trade, during his or their appointment, agency or employment, other than provided by this act, or excepting for or on account of the United States. And if any such person shall offend against any of the prohibitions aforesaid, he shall be deemed guilty of a misdemeanor; and shall, upon conviction thereof, forfeit to the United States a sum not exceeding one thousand dollars, and shall be removed from such office, agency or employment, and forever thereafter, be incapable of holding any office under the United States: *Provided*, That if any person other than a public prosecutor, shall give information of any such offence, upon which a prosecution and conviction shall be had, one half of the aforesaid penalty, when received, shall be for the use of the person giving such information: *And provided also*, That if such misdemeanor be committed by the superintendant of Indian trade,

Penalties.

Proviſo.

Proviſo.

or by any agent, it shall be deemed a breach of the condition of his bond, and the penalty thereof may be recovered in any court having competent jurisdiction of the same.

Prices of goods furniſhed the Indians to be ſo regulated as that the capital ſtock is not to be diminiſhed.

Sec. 7. *And be it further enacted*, That the prices of goods supplied to, and to be paid for, by the Indians, shall be regulated in such manner, that the capital stock, furnished by the United States, shall not be diminished.

Annual appropriation for paying ſuperintendant and his clerks.

Sec. 8. *And be it further enacted*, That during the continuance of this act, the annual sum of three thousand dollars be, and the same is hereby appropriated for the payment of the salary of the superintendant of Indian trade and his clerks, to be paid out of any money in the treasury of the United States not otherwise appropriated.

Preſident draw a ſum of money every year for the payment of agents and clerks.

Agents and clerks entitled to draw rations.

Sec. 9. *And be it further enacted*, That during the continuance of this act, the President of the United States be, and he is hereby authorised to draw annually from the treasury of the United States a sum not exceeding ten thousand dollars, to be applied under his direction to the payment of the agents and clerks; which agents shall be allowed to draw out of the public supplies two rations each, and each clerk one ration per day.

Sum appropriated for the trade and intercourſe of U. S. with the Indian tribes.

Sec. 10. *And be it further enacted*, That the sum of two hundred and sixty thousand dollars, including the sums heretofore appropriated, and applied to the like purpose, and exclusive of the salary of the superintendant of Indian trade, and of the allowances to agents and clerks, be, and the same is hereby appropriated, for the purpose of carrying on trade and intercourse with the Indian nations, in the manner aforesaid, to be paid out of any monies in the treasury of the United States, not otherwise appropriated.

Penalties for purchaſing certain articles from the Indians.

Sec. 11. *And be it further enacted*, That if any agent or agents, their clerks, or other person employed by them, shall purchase or receive from any Indian, in the way of trade or barter, any gun, or other article commonly used in hunting; any instrument of husbandry or cooking utensil, of the kind usually obtained by Indians, in their intercourse with white people, or any article of clothing, excepting, skins or furs, he or they shall respectively forfeit the sum of one hundred dollars for each offence, to be recovered by action of debt, in the name and to the use of the United States, in any court having jurisdiction in like cases: *Provided*, That no suit shall be commenced except in the state or territory within which the cause of action shall have arisen, or in which the defendant may reside. And it shall be the duty of the superintendant of Indian trade, or of the superintendants of Indian affairs, and their deputies respectively, to whom information of every such offence shall be given, to collect the requisite evidence, if attainable, to prosecute the offender without delay.

Proviſo.

The furs and peltries belonging to the U. S. to be ſold at public auction after notice ſhall have been publiſhed.

Sec. 12. *And be it further enacted*, That it shall be the duty of the said superintendant of Indian trade, under the direction of the President of the United States, to cause the said furs and peltry to be sold at public auction, public notice whereof shall be given three weeks previous to such sale, in different parts of the United States, making an equal distribution of the same, in proportion to the demand of the market, and as may be deemed most advantageous to the United States, and upon such terms and conditions as shall be prescribed by the secretary of war: *Provided*, That there shall not be less than six annual public sales, of the said furs and peltry, and that the superintendant of Indian trade shall not hold more than two such sales in any state, during any one year.

Sec. 13. *And be it further enacted*, That this act shall be in force for and during the term of three years, and no longer.

Duration of this act.

NATHL. MACON,
Speaker of the House of Representatives.
S. SMITH,
President of the Senate, pro tempore.
April 21, 1806.
APPROVED,
TH; JEFFERSON.

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